

**CROSS-BORDER SERVICES:**  
**HIGHLIGHTING THE 25% FWT + 12% FVAT ON**  
**PAYMENTS TO FOREIGN SERVICE PROVIDERS**

06.07.25 [SATURDAY] 8-5

WILLIE B. SANTIAGO, LAWYER AND CERTIFIED PUBLIC ACCOUNTANT  
MCLE LECTURER AND CPAE REVIEWER



**INTEREST EXPENSE PAID ABROAD**



DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE

**CERTIFICATE OF ENTITLEMENT TO TREATY BENEFITS**

This is to certify that the interest payments made by [REDACTED] to [REDACTED], a resident of the Japan, are subject to the preferential income tax rate of **10%** pursuant to Article 11(2) of the Convention between the Republic of the Philippines and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (PH-Japan Tax Treaty), as amended.<sup>1</sup>

The details of the transactions are as follows:

<b>Contract</b>	Loan Agreement dated July 22, 2016
<b>Amount of Loan</b>	JPY3,612,460,980.00/PHP1,661,370,804.02
<b>Annual Interest Rate</b>	10%

The details of the transactions are as follows:

<b>Contract</b>	Loan Agreement dated July 22, 2016
<b>Amount of Loan</b>	JPY3,612,460,980.00/PHP1,661,370,804.02
<b>Annual Interest Rate</b>	1%
<b>Interest Period</b>	Quarterly
<b>Maturity Date</b>	June 30, 2018 if the loan is utilized on or before June 30, 2018, but if the loan is rolled over, the maturity date shall extend for one year and shall be deemed to fall on June 30 immediately following the roll-over

## **INCOME TAX**

Article 11 of the PH-Japan Tax Treaty states that interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 percent of the gross amount of the interest.

The term 'interest' as used in the treaty means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

Considering that [REDACTED] is a resident of Japan and is the beneficial owner of the interest paid by [REDACTED], a domestic corporation, it is, therefore, entitled to the benefit provided under the treaty. Accordingly, any interest arising from the loan is subject to the preferential income tax rate of **10%**.

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<sup>1</sup> Amended by a Protocol effective January 1, 2009.



The same rule shall apply to subsequent interest payments provided that the following conditions are satisfied:

1. [REDACTED] remains a resident of Japan and the beneficial owner of the interest;  
and
2. there is no relevant and significant change in the applicable provision of the tax treaty upon which this ruling was based.



# Knowledge Check

hereof.

Issued on 26 NOV 2024 in Quezon City, Philippines



C.O.E. NO. 24-782

*Larry M. Barcelo*  
LARRY M. BARCELO  
Assistant Commissioner  
Legal Service

00016270

# **DIVIDENDS PAID ABROAD**



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE

**CERTIFICATE OF ENTITLEMENT TO TREATY BENEFITS**

This is to certify that the dividend payments made by [REDACTED] to [REDACTED] a resident of Japan, are subject to the preferential income tax rate of **10%** pursuant to Article 10(2)(a) of the Convention between the Republic of the Philippines and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (PH-Japan Tax Treaty), as amended.<sup>1</sup>

The details of the said dividends are as follows:

The details of the said dividends are as follows:

<b>Amount of Dividend</b>	Php7,500,000.00	Php5,555,555.55
<b>Date of Declaration</b>	December 22, 2020	October 6, 2021
<b>Date of Payment</b>	March 9, 2021	October 6, 2021
<b>Number of Shares Held</b>	250,000 common shares	400,000 common shares
<b>Percentage of Ownership</b>	100%	
<b>Date of Acquisition</b>	February 8, 2008 to June 24, 2019	February 8, 2008 to September 20, 2021

Pursuant to Article 10(2) of the PH-Japan Tax Treaty, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may also be taxed in the first-mentioned State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent either of the voting shares of the company paying the dividends or of the total shares issued by that company
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Pursuant to Article 10(2) of the PH-Japan Tax Treaty, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may also be taxed in the first-mentioned State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent either of the voting shares of the company paying the dividends or of the total shares issued by that company during the period of six months immediately preceding the date of payment of the dividends; or
- b) 15 per cent of the gross amount of the dividends in all other cases.

In this case [REDACTED] the beneficial owner of the dividends, is a company which has been holding 100% of the outstanding shares of [REDACTED] the company paying the dividends since its incorporation on February 8, 2008. Accordingly, the dividends derived by [REDACTED] are subject to the preferential income tax rate of **10%**.

The same rule shall apply to subsequent dividend payments provided that the following conditions are satisfied:

1. [REDACTED] remains a resident of Japan and the beneficial owner of the dividends;
2. [REDACTED] continues to satisfy the required holding percentage of at least 10%; and
3. there is no relevant and significant change in the applicable provision of the tax treaty upon which this ruling was based.

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<sup>1</sup> Amended by a Protocol effective January 1, 2009.



For inquiries on the authenticity of this document, please contact the International Tax Affairs Division of the Bureau of Internal Revenue at: +63 8927-0022/8926-3420/8926-3420.

Control No. 22-0819-D

C.O.E. NO. 23-279

A handwritten signature or mark in blue ink, located in the bottom right corner of the page.

This Certificate is issued in lieu of a BIR Ruling confirming entitlement to treaty benefit. It shall be revoked or cancelled should there be a relevant and significant change in the facts or circumstances upon which this ruling was based.

Any material changes shall be reported within thirty (30) days from receipt hereof.

Issued on 03 JUL 2023 in Quezon City, Philippines.



  
**LARRY M. BARCELO**  
Assistant Commissioner  
Legal Service  
**000 / 1 7 6 8**

# **ROYALTIES PAID ABROAD**



Bringing In Revenues  
for Nation-Building

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



**CERTIFICATE OF ENTITLEMENT TO TREATY BENEFITS**

This is to certify that the royalty payments made by [REDACTED] g Philippines Inc [REDACTED] to [REDACTED], a resident of Japan, are subject to the preferential income tax rate of **10%** pursuant to Article 12(2)(b) of the Convention between the Republic of the Philippines and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (PH-Japan Tax Treaty), as amended.<sup>1</sup>

The details of the transaction are as follows:

<b>Contract</b>	Memorandum of Agreement
<b>Date of Execution</b>	January 30, 2020
<b>Term</b>	One (1) year, subject to automatic renewal on a yearly basis
<b>Rights/Licenses Granted</b>	<p>██████████ was granted the following by ██████████</p> <ol style="list-style-type: none"><li>1. exclusive authority to manufacture and sell seals, labels, stickers, and other adhesives in the Philippines and other parts of Asia;</li><li>2. Technology transfer needed by the nature of the business;</li><li>3. Technical training and managerial assistance;</li><li>4. Use of ██████████ trademarks, logo, and other marks as long as the standards set are maintained; and</li><li>5. Other assistance that ██████████ may need to sustain the business.</li></ol>
<b>Royalties</b>	Five percent (5%) of the amount of gross sales generated by ██████████ for the calendar year 2020 or applicable year wherein the payment shall be made on the month following the end of 2020 unless a

	... per cent (10%) of the amount of gross sales generated by MIPPI for the calendar year 2020 or applicable year wherein the payment shall be made on the month following the end of 2020 unless a different date is agreed upon by the parties
<b>Date of Payment</b>	Monthly

## **INCOME TAX**

Pursuant to Article 12(2) of the PH-Japan Tax Treaty, royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the royalties if the royalties are paid in respect of the use of or the right to use cinematograph films and films or tapes for radio or television broadcasting; or
  - b) 10 per cent of the gross amount of the royalties in all other cases.
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b) 10 per cent of the gross amount of the royalties in all other cases.

The term “royalties” as defined under Article 12(4) of the treaty means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or

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<sup>1</sup> Amended by a Protocol effective January 1, 2009.

For inquiries on the authenticity of this document, please contact the International Tax Affairs Division of the Bureau of Internal Revenue at: +63 8927-0022/8926-3420/8926-3420.

**Control No. 22-0820-R**

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**BIR National Office Bldg., Senator Miriam Defensor-Santiago Avenue, Diliman, Quezon City**

**Website: [www.bir.gov.ph](http://www.bir.gov.ph)**

**Trunkline: 8981-7000 ; 8929-7676**

process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

In this case, the royalties were paid to [REDACTED] the beneficial owner thereof, as consideration for [REDACTED] use of or the right to use trademark, logo, and know-how of [REDACTED]. Accordingly, the royalties derived by [REDACTED] are subject to the preferential income tax rate of 10%.

The same rule shall apply to subsequent royalty payments provided that the following conditions are satisfied:

1. [REDACTED] remains a resident of Japan and the beneficial owner of the royalties;
  2. the royalties are paid as consideration for the use of, or the right to use, the intellectual property rights of [REDACTED] other than those associated with the use of cinematograph films and films or tapes for radio or television broadcasting; and
  3. there is no relevant and significant change in the applicable provision of the tax treaty upon which this ruling was based.
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## VALUE-ADDED TAX (VAT)

Pursuant to Section 105 of the Tax Code, as amended, any person who, in the course of trade or business, renders services shall be subject to the VAT imposed under Section 108 thereof. For VAT purposes, non-resident persons who perform services in the Philippines are deemed to be making sales in the course of trade or business, even if the performance of services is not regular.<sup>2</sup>

Section 108 of the Tax Code imposes a 12% VAT on gross receipts derived from the sale or exchange of services, including the use or lease of properties. The phrase ‘sale or exchange of services’ means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration.

Nevertheless, in *Commissioner of Internal Revenue vs. Seagate Technology (Philippines)*,<sup>3</sup> the Court held that an entity registered with the Philippine Export Zone Authority (PEZA) is exempt from both direct and indirect taxes. As such, it can neither be directly charged for the VAT on its sales nor indirectly made to bear, as added cost to such sales, the equivalent VAT on its purchases.

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sales, the equivalent VAT on its purchases.

Upon the effectivity of Republic Act (R.A.) No. 11534, otherwise known as the Corporate Recovery and Tax Incentives for Enterprises Act or "CREATE", however, on April 11, 2021, the VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity by a registered business enterprise.<sup>4</sup> Moreover, Rule 2, Section 5 of the Implementing Rules and Regulations (IRR) of the CREATE Act states that the VAT exemption on importation and VAT zero-rating on local purchases shall only apply to goods and services directly and exclusively used in the registered project or activity of **export enterprises**, during the period of registration of the said registered project or activity with the concerned Investment Promotion Agency (IPA).

Here, [REDACTED] is registered with the PEZA as an Ecozone Export Enterprise at the Laguna Technopark – Special Economic Zone, as evidenced by its Certificate of Registration No. 08-11 dated March 25, 2008. Therefore, prior to the CREATE Act, a service

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<sup>2</sup> Sec. 4.105-3, Revenue Regulations (RR) No. 16-2005, otherwise known as Consolidated Value-Added Tax Regulations of 2005.

purchased by [REDACTED] that is destined for consumption within the Ecozone should be **free of VAT**. Upon the effectivity of the CREATE Act, [REDACTED] shall be entitled to VAT-exemption on importation, and VAT zero-rating on local purchases of goods and services *directly and exclusively used in the registered project or activity as an export enterprise*. In the same manner, purchases of services from nonresident enterprises, like [REDACTED] in this case, shall likewise be free of VAT if such services are directly attributable to and exclusively used in the said registered project or activity.

This Certificate is issued in lieu of a BIR Ruling confirming entitlement to treaty benefit. It shall be revoked or cancelled should there be a relevant and significant change in the facts or circumstances upon which this ruling was based.

Any material changes shall be reported within thirty (30) days from receipt hereof.

Issued on 26 NOV 2024 in Quezon City, Philippines.

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Any material changes shall be reported within thirty (30) days from receipt hereof.

Issued on 26 NOV 2024 in Quezon City, Philippines.



C.O.E. NO. 24-734

  
LARRY M. BARCELO  
Assistant Commissioner  
Legal Service

0001.6242

**COMMON DOCUMENTARY REQUIREMENTS FOR  
TAX TREATY RULING APPLICATION OR  
REQUEST FOR CONFIRMATION**

## ANNEX A

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For business profits)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-P duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	

## ANNEX A

List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Contract duly executed by the parties or their authorized representatives	
SPA authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Sworn Certification stating the following: i. services provided by the foreign enterprise ii. place of performance of such services iii. individuals who rendered the services on behalf of the foreign enterprise, their positions/designations and professional background iv. duration of stay in the Philippines of said individuals	
Certification duly issued by the Bureau of Immigration, which shall state the dates of arrival in, and departure from, the Philippines of the concerned individual(s) <i>or</i> their passport booklets	
Certificate of Completion of the project duly signed by the income recipient and duly accepted by the domestic income payor	
Invoice(s) duly issued by the income recipient in accordance with the invoicing requirements of the country of residence	
✓ - submitted; X - not submitted; N/A- not applicable	

## ANNEX B

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For Profits from the Operation of Ships or Aircraft in International Traffic)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-T duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission	
<b>Additional general requirements for a fiscally transparent entity</b>	

## ANNEX B

A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Proof of registry of the international carrier	
Authority to Operate/Certificate of Accreditation issued by the concerned Philippine government agency in favor of the international carrier	
<b>If tax exemption is invoked on the basis of reciprocity:</b>	
Letter-request, which shall contain a brief overview of its operations and shall state the legal basis of such exemption	
Competent proof of reciprocity duly issued by the foreign tax authority	
* ✓ - submitted; X - not submitted; N/A- not applicable	

## ANNEX C

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For dividends)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-D duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphabetical List of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	

## ANNEX C

A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Board of Directors' resolution approving the issuance of dividends, which shall include the amount of dividends, and dates of declaration, record and payment, among others	
Certification under oath by the corporate secretary/custodian banks/depository account holders/broker dealers stating in detail the legal and beneficial owners of all issued and outstanding shares as of record date, their corresponding subscriptions, date/s of acquisition, percentage of ownership and the allocation of dividend	
Certified true copy of the audited financial statements (AFS) as of the taxable year immediately preceding the date of declaration, which was duly filed with the BIR and SEC	
General Information Sheet for the year immediately preceding the date of declaration	
Proof that the shareholding in respect of which the dividends are paid is not effectively connected with the permanent establishment of the foreign enterprise in the Philippines	
* ✓ - submitted; X - not submitted; N/A- not applicable	

## ANNEX D

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For branch profit remittance)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-PR duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission	

## ANNEX D

<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Sworn certification executed by the manager or other authorized representative of the branch office stating the amount earmarked for remittance and the date of remittance	
Audited Financial Statements of the branch office for the taxable year immediately preceding the year of remittance	

\* ✓ - submitted; X - not submitted; N/A- not applicable

## ANNEX E

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For interest)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-I duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	

## ANNEX E

<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Duly executed contract	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the remittance of the loan by the nonresident creditor	
Proof that the debt-claim in respect of which the interest is paid is not effectively connected with the permanent establishment of the foreign enterprise in the Philippines	
Proof that the interest rate is arm's length, if the debtor and creditor are related parties	

\* ✓ - submitted; X - not submitted; N/A- not applicable

## ANNEX F

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For royalties)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-R duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	

## ANNEX F

<b>Additional requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
License Agreement duly executed by the parties	
Proof of ownership or interest over the licensed product, patent, copyright, trademark, tradename, etc.	
Proof that the right or property in respect of which the royalties are paid is not effectively connected with the permanent establishment of the foreign enterprise in the Philippines	

\* ✓ - submitted; X - not submitted; N/A- not applicable

## ANNEX G.1

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For ordinary sale of shares)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional requirements for a fiscally transparent entity:</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements in case of ordinary sale of shares</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction	
Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC	
Interim AFS as of the date of transfer	
Lapsing schedule as of the date of transfer or alienation of property	
BIR Form No. 1707 and proof of payment, if applicable	
BIR Form No. 2000-OT and proof of payment	
BIR Form No. 0605 and proof of payment of the processing and certification fee of P5,000.00	

## ANNEX G.2

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For redemption of shares)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

incorporation, with an English translation	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements in case of redemption of shares</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction	
Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC	
Interim AFS as of the date of transfer	
Lapsing schedule as of the date of transfer or alienation of property	
BIR Form No. 1707 and proof of payment, if applicable	
BIR Form No. 2000-OT and proof of payment	
BIR Form No. 0605 and proof of payment of the processing and certification fee of ₱5,000.00	
Notarized Board of Directors' resolution authorizing the redemption or buy-back of shares	
Articles of Incorporation and By-Laws of the issuing corporation	

## ANNEX G.3

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For exchange of shares)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements in case of exchange of shares</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

Executed by the beneficial owner of shares

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction

Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC

Interim AFS as of the date of transfer

Lapsing schedule as of the date of transfer or alienation of property

BIR Form No. 1707 and proof of payment, if applicable

BIR Form No. 2000-OT and proof of payment

BIR Form No. 0605 and proof of payment of the processing and certification fee of ₱5,000.00

AFS of the transferor as of the end of the immediately preceding year, and as of the date of exchange

AFS of the transferee as of the end of the immediately preceding year, and as of the date of exchange

\* ✓ - submitted; X - not submitted; N/A- not applicable

## ANNEX G.4

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For alienation of shares as a result of business reorganization)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements in case of business reorganization</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction	
Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC	
Interim AFS as of the date of transfer	
Lapsing schedule as of the date of transfer or alienation of property	
BIR Form No. 1707 and proof of payment, if applicable	
BIR Form No. 2000-OT and proof of payment	
BIR Form No. 0605 and proof of payment of the processing and certification fee of ₱5,000.00	
Restructuring documents (e.g. Approved Plan and/or Articles of Merger/Consolidation/Corporate Reorganization) duly executed by the parties	
Certificate or any document duly issued by the company register or any relevant government agency approving or consenting to the corporate restructuring	

\* ✓ - submitted; X - not submitted; N/A- not applicable

## ANNEX G.5

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For alienation of shares as a result of dissolution and liquidation)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements in case of dissolution or liquidation of a company</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction	
Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC	
Interim AFS as of the date of transfer	
Lapsing schedule as of the date of transfer or alienation of property	
BIR Form No. 1707 and proof of payment, if applicable	
BIR Form No. 2000-OT and proof of payment	
BIR Form No. 0605 and proof of payment of the processing and certification fee of ₱5,000.00	
Notarized Board of Directors' resolution authorizing the dissolution and liquidation of the company	
Certificate of Dissolution duly issued by the SEC in case of voluntary dissolution	
* ✓ - submitted; X - not submitted; N/A- not applicable	

## ANNEX G.6

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For alienation of shares as property dividends)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-C duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	

Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Additional general requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements when shares are alienated as property dividends</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	
Notarized Corporate Secretary's Certificate stating the nonresident taxpayer's percentage of shareholding prior to the transfer or alienation of shares, date and mode of acquisition (e.g. original subscription, subsequent transfer or by way of stock or property dividends), or any equivalent document executed by the authorized representative of a partnership/trust stating the interest to be alienated	
Stock certificates	
Deed of Trust/Nominee Agreement between the nominee shareholder and the beneficial owner of shares executed by the beneficial owner of shares	

General Information Sheet of the issuing corporation for the year immediately preceding the date of transaction	
Audited Financial Statements (AFS) of the issuing corporation, partnership or trust for the taxable year immediately preceding the year of transfer stamped received by the BIR and SEC	
Interim AFS as of the date of transfer	
Lapsing schedule as of the date of transfer or alienation of property	
BIR Form No. 1707 and proof of payment, if applicable	
BIR Form No. 2000-OT and proof of payment	
BIR Form No. 0605 and proof of payment of the processing and certification fee of ₱5,000.00	
Board of Directors' resolution approving the issuance of property dividends	
Authenticated copy of transferor's AFS as of the end of the immediately preceding year, and as of the date of transfer	
Authenticated copy of the transferee's AFS as of or after the date of transfer	
* ✓ - submitted; X - not submitted; N/A- not applicable	

## ANNEX H

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (for remuneration derived from the provision of professional services or other activities of an independent character)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-S1 duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	

Specific requirements	
Contract duly executed by the parties or their authorized representatives	
Certification duly issued by the Bureau of Immigration, which shall state the dates of arrival in, and departure from, the Philippines of professional or independent contractor, or his(her) passport booklet	
Certificate of Completion of the project duly signed by the professional or independent contractor and duly accepted by the domestic income payor	
Invoice(s) duly issued by the income recipient in accordance with the invoicing requirements of the country of residence	

\* ✓ - submitted; X - not submitted; N/A- not applicable

Submitted by: \_\_\_\_\_  
Name of Taxpayer

Date: \_\_\_\_\_

Evaluated by: \_\_\_\_\_  
Case Officer

Date: \_\_\_\_\_

## ANNEX I

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (for remuneration derived from the provision of dependent personal service)

<b>General requirements</b>	<b>Remarks*</b>
Letter-request	
BIR Form No. 0901-S2 duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	

<b>Specific requirements</b>	
Employment Contract duly executed by the foreign employer and the foreign employee	
Contract between the foreign employer and the domestic taxpayer allowing the temporary assignment of the foreign employee in the Philippines	
Secondment Agreement duly executed by the foreign employer and the foreign employee-seconded	
Certification duly issued by the Bureau of Immigration, which shall state the dates of arrival in, and departure from, the Philippines of the foreign employee, or his(her) passport booklet	

\* ✓ - submitted; X - not submitted; N/A- not applicable

Submitted by: \_\_\_\_\_  
Name of Taxpayer

Date: \_\_\_\_\_

Evaluated by: \_\_\_\_\_  
Case Officer

Date: \_\_\_\_\_

# ANNEX J

## CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (Remunerations, grants, allowances, etc. received by professors, teachers, students, business apprentice or trainees)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-S3 duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Specific requirements</b>	
Employment contract between the professor/teacher/researcher and the domestic income payor	
Certification duly issued by the Bureau of Immigration, which shall state the dates of arrival in, and departure from, the Philippines of the professor, teacher and researcher, or his/her) passport booklet	

\* ✓ - submitted; X - not submitted; N/A- not applicable

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Name of Taxpayer

Evaluated by: \_\_\_\_\_ Date: \_\_\_\_\_  
Case Officer

# ANNEX K

## CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For income earned by entertainment/artists, sportsman or other temporary visitors)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-S4 duly signed by the nonresident income recipient/withholding agent or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	
<b>Specific requirements</b>	
Contract duly executed by the parties	
Permit or license issued by the concerned Philippine government agency, if applicable	
Proof of exemption from tax (e.g. proof that the visit to the Philippines is wholly or substantially supported, sponsored, or officially recognized and endorsed by the country of residence, political subdivisions, local authority or statutory body thereof)	

\* ✓ - submitted; X - not submitted; N/A- not applicable

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Name of Taxpayer

Evaluated by: \_\_\_\_\_ Date: \_\_\_\_\_  
Case Officer

## ANNEX L

### CHECKLIST OF REQUIREMENTS FOR TAX TREATY RELIEF APPLICATION OR REQUEST FOR CONFIRMATION OF ENTITLEMENT TO TREATY BENEFIT (For other income)

General requirements	Remarks*
Letter-request	
BIR Form No. 0901-O duly signed by the nonresident income recipient or its/his/her authorized representative	
Tax Residency Certificate (TRC) for the relevant period, duly issued by the tax authority of the foreign country in which the income recipient is a resident	
Bank documents/certificate of deposit/telegraphic transfer/telex/money transfer evidencing the payment/remittance of income	
Withholding tax return with Alphalist of Payees	
Proof of payment of withholding tax	
Notarized Special Power of Attorney (SPA) issued by the nonresident income recipient or withholding agent to his/her/its authorized representative(s), which shall expressly state the authority to sign the Application Form and/or to file the TTRA or request for confirmation, if applicable	
Authenticated copy of the nonresident legal person or arrangement's Articles/Memorandum of Incorporation/Association, Trust Agreement, or equivalent document confirming its establishment or incorporation, with an English translation thereof if in foreign language	
Original copy of the Certificate of Non-Registration of Company or certified true copy of License to Do Business in the Philippines duly issued by the Securities and Exchange Commission for non-individuals or original copy of the Certificate of Business Registration/Presence duly issued by the Department of Trade and Industry (DTI) for individuals	

<b>Additional requirements for a fiscally transparent entity</b>	
A copy of the law of the foreign country showing that tax is imposed on the owners or beneficiaries of the foreign fiscally transparent entity	
List of owners/beneficiaries of the foreign entity	
Proof of ownership of the foreign entity	
TRC duly issued by the concerned foreign tax authority to the owners or beneficiaries of the fiscally transparent entity	
<b>Specific requirements</b>	
Contract duly executed by the parties	
Special Power of Attorney authorizing the signatory(ies) to the contract to sign on behalf of the principal(s)	

\* ✓ - submitted; X - not submitted; N/A- not applicable

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_  
Name of Taxpayer

Evaluated by: \_\_\_\_\_ Date: \_\_\_\_\_  
Case Officer

PARRAMATTA NSW 2150

Telephone: 132 866  
Our Reference: 1052338909637



Australian Government  
Australian Taxation Office

Issue date: 2 December 2024

## Certificate of Residency

*This is to certify that*



*Of*

41 HINKLER ROAD  
GLEN WAVERLEY VICTORIA 3150  
AUSTRALIA

is a resident of Australia for income tax purposes as defined by Subsection 6(1) of the Income Tax Assessment Act 1936, and therefore a **domestic tax resident of Australia** as contemplated in Article 4 of the Australia/Philippines Double Tax Agreement, liable to pay Australian income tax on their worldwide income.  
**ABN: 81 330 950 124**



Australian Government  
AUSTRALIAN TAXATION OFFICE  
DELEGATE OF THE DEPUTY  
COMMISSIONER

A handwritten signature in black ink, appearing to read 'Grant Brodie'.

Grant Brodie  
Deputy Commissioner of Taxation  
Australian Taxation Office

*This certificate is valid from 1 July 2022 to 30 June 2023 based on the information provided.*

*If a change in circumstances within this period affects your residency status, contact the Australian Taxation Office as this certificate may no longer be valid.*



Bringing In Revenues  
for Nation-Building

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



Section 28(B)(1) of the National  
Internal Revenue Code of 1997, as  
amended

BIR Ruling No. ITAD 019-25

14 APR 2025

**FAILURE TO COMPLY WITH A LAWFUL ORDER TO SUBSTANTIATE THE  
CLAIM FOR PREFERENTIAL TAX TREATMENT RESULTS IN THE  
AUTOMATIC DENIAL OF THE TREATY BENEFIT APPLICATIONS**

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The logo for Intergraph, featuring the word "INTERGRAPH" in a bold, blue, sans-serif font. A thin, grey, curved line arches over the letters "I" and "N".

**vs**



- whether royalties paid by IPBSPI Co. to IC are subject to 10% preferential tax rate under PH–US Tax Treaty on income taxes

# FACTS

INTERGRAPH vs



**Jan. 01, 2015**

- ❑ Entered into an Intercompany Agreement



**April 22, 2022**

- ❑ On behalf of IPBSPI Co., SGV & Co. filed a request for confirmation to BIR for TY 2021

**Feb 15, 2024 & July 29, 2024**

- ❑ 2 Notices to submit sent to SGV



**Aug. 29, 2024**

- ❑ SGV sent a letter - reply to BIR



**Sept. 12, 2024**

- ❑ SGV filled another request of confirmation for TY 2023



## RULING

INTERGRAPH vs



- BIR denied the request for entitlement to the 10% preferential tax rate under the MFN clause of PH–US Tax Treaty due to TP’s failure to comply with the Notice to Submit Additional Documents



**DENIED**

**10%  
TAX**

**PREFERENTIAL**



## RULING

INTERGRAPH vs



- ❑ **Section 5 of RMO No. 14-2021** allows the BIR to request Additional Documents to assess claims for preferential tax treaty rates.



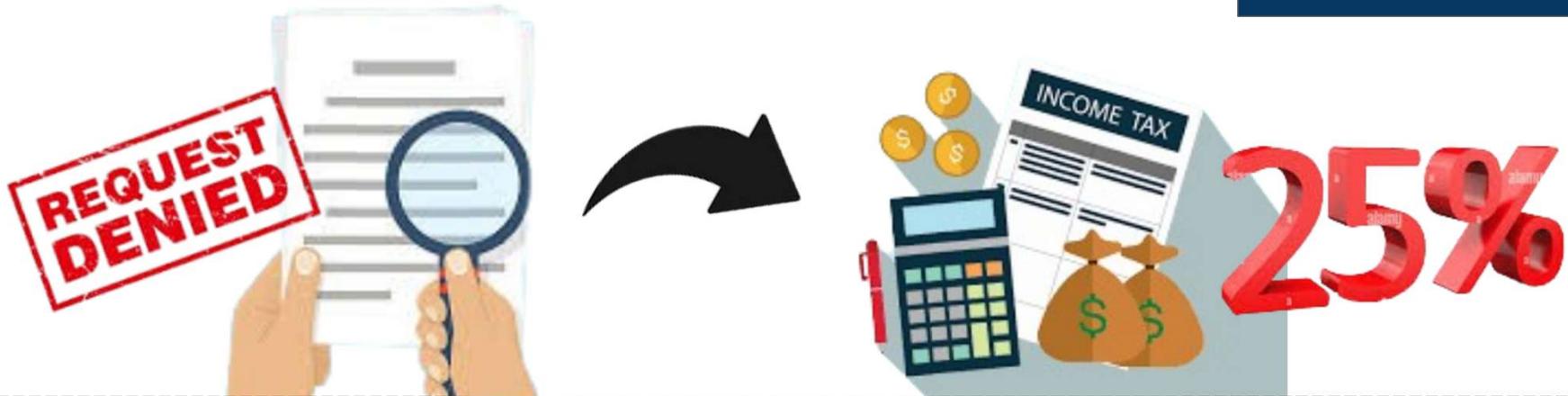
- ❑ Failure to comply with a lawful order, such as submitting required documents, constitutes failure to substantiate the claim, resulting in the **automatic denial** of the application for confirmation of tax treaty benefits.





## RULING

INTERGRAPH vs



- ❑ Despite the issuance of multiple Notices requesting additional documents, IPBSPI Co. &/or its authorized representative failed to comply within the prescribed periods, BIR denied the application for confirmation of entitlement to treaty benefits
- ❑ Consequently, the fees are held to be subject to **regular 25% income tax rate** under **SEC 28(B)(1) NIRC**

**ON VAT LIABILITY OF  
NON-RESIDENT DIGITAL SERVICE PROVIDER**

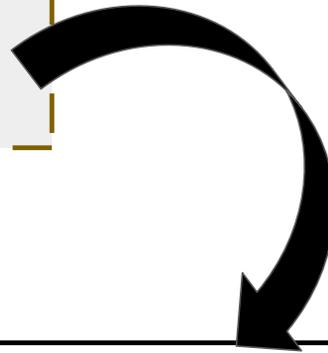


# **VAT Liabilities of Non-Resident DSPs**





## Who is Affected?



- Non-Resident Digital Service Providers (NRDSPs)** – no physical presence in PH
- Includes platforms offering streaming, software, e-commerce

# VAT Remittance Liability

“a non-resident digital service provider”

☐ refers to a digital service provider with no physical presence in PH



☐ Generally, the liability for VAT remittance of NRDSPs depends on the type of transaction involved:

## Business-to-Business (B2B) Transactions

- ❑ VAT withheld & remitted by PH business buyer (reverse charge)
- ❑ NRDSP must **file returns**, but **not remit VAT**



## Business-to-Consumer (B2C) Transactions

- ❑ NRDSP directly liable for VAT remittance via **VDS Portal**
- ❑ Must file VAT returns & pay 12% VAT



# Registration Requirements

- Via **ORUS** or **VDS Portal**
- Must register **by June 1, 2025**, regardless of VAT threshold
- Appointing a 3<sup>rd</sup> party service provider is optional
- Required docs include Apostilled business proof & authorized rep ID



# Invoicing

- No BIR-registered format required
- Must include transaction details, buyer info (for B2B) & VAT disclosure
- Electronic invoices allowed



# **DEVELOPING STORY**



BUSINESS

# Philippines, Hong Kong negotiate double taxation agreement

Louise Maureen Simeon - The Philippine Star

May 26, 2025 | 12:00am



**Find answers to your questions**

Get answers for all those questions you're too scared to ask

Reddit

### Recommended



**Duterte bid to disqualify ICC judges opposed**



# **PMFTC, INC. VS. COMMISSIONER OF INTERNAL REVENUE**

CTA CASE 8691

JULY 27, 2015



**VS**



- ❑ PMFTC, Inc. entered into a Trademark License Agreement with Philip Morris Global Brands, Inc. (PMGB) in 2010
- ❑ PMFTC paid PMGB royalties amounting to Php 2.79 billion (Jul 2011–Oct 2012)
- ❑ PMFTC withheld 30% FWT (Php 838.65 million) & remitted this to the BIR



# FACT

- ❑ On July 31, 2013, PMFTC filed an administrative claim for a refund of **Php 559,097,313.63**
- ❑ The claim was based on the RP-US Tax Treaty's Most Favored Nation (MFN) clause



## ISSUES



- Whether PMFTC's royalty payments to PMGB are **entitled to a 10% preferential tax rate** under the MFN clause
- Whether PMFTC is entitled to a **refund or tax credit of Php 559,097,313.63**
- Whether PMFTC, as a withholding agent, has standing to file the claim
- Whether the CTA has jurisdiction to rule on the validity of **Sec 14 RMO 72-10**

## Petitioner's Arguments

- ❑ **MFN clause applies:** 10% rate granted to China & UAE should also apply to US under the RP-US treaty
- ❑ TTRA is **not a condition precedent** to invoking treaty benefits



- ❑ As withholding agent, PMFTC has legal standing to file for refund
- ❑ BIR **cannot override a treaty** with administrative issuances

## Respondent's Counter-Arguments

- CTA lacks jurisdiction to rule on the constitutionality of **RMO 72-10**
- PMFTC, being only a **withholding agent**, is **not the proper party** to claim the refund

- refund claim is **unsubstantiated &**
- lacks necessary documentation**



## RULINGS



- ❑ Petition **GRANTED**
- ❑ BIR ordered to refund or issue TCC to PMFTC in the amount of **Php 490,422,017.77**
- ❑ CTA reaffirmed supremacy of treaty law over administrative rules, within procedural bounds



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for Nation-Building

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



Article 12(2)(b), PH-Malaysia Tax Treaty  
Sections 28(B)(1) and (4), 105 and 108,  
Tax Code, as amended

BIR Ruling No. ITAD 015-25

Date: \_\_\_\_\_

SIEGWERK PHILIPPINES INC.

**ROYALTY PAYMENTS ARE SUBJECT TO 25% TAX RATE  
PURSUANT TO PH-MALAYSIA TAX TREATY UNLESS THE  
ENTERPRISE IS A BOI-REGISTERED ENTITY  
ENGAGED IN PREFERRED ACTIVITIES**

# FACTS



**SIEGWERK**

**SIEGWERK PH**



License Agreement

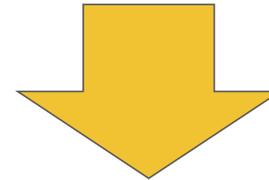


**SIEGWERK**

**SIEGWERK  
Malaysia (MY)**



Both companies operate in the ink manufacturing industry



affiliated members of the Siegwerk Group

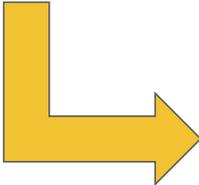




- Siegwerk-MY granted Siegwerk-PH a non-exclusive, temporary license to utilize its intellectual property & parts thereof for the production of packaging ink products & the provision of related services



## SIEGWERK PH

- 
- Shall pay Siegwerk-MY **royalty** calculated at the rate of **0.70% of the net sales**

- Is the royalty payment to Siegwerk-MY subject to 15% income tax rate under PH-MY tax treaty?





IN REPLY



Sec 28 (B)(1)  
NIRC



generally imposes a 25% income tax on  
NFRC

- Article 12 of the PH-Malaysia Tax Treaty**-royalty payments may be taxed in PH at a **reduced rate of 15%** if the royalties are paid by a registered enterprise engaged in preferred activities

In this case, the royalties were paid for the use of Siegwirk-MY's intellectual property rights in producing packaging ink & related services

- ❑ Siegwirk-PH failed to establish that it is a BOI-registered enterprise engaged in preferred activities
- ❑ the reduced 15% rate does not apply
- ❑ Royalties are subject to the higher 25% tax rate under Art 12(2)(b)(ii) of the treaty



❑ Gross receipts earned by Siegwerk-MY from providing services to Siegwerk-PH, including the use of intellectual property rights, are **subject to 12% VAT** under Sec 108(A) in relation to Sec 105 NIRC

**12%**

For BIR Use Only: BCS/Item: Republic of the Philippines Department of Finance Bureau of Internal Revenue

BIR Form No. **1600-PT**  
January 2018 Page 1  
Monthly Remittance Return of Other Percentage Taxes Withheld  
Enter all required information in CAPITAL LETTERS using BLACK ink. Mark applicable boxes with an "X". Two copies MUST be filed with the BIR and one held by the Taxpayer. 1600-PT 01/18 P1

1 For the month (MM/20YY) **2 0** 2 Amended Return?  Yes  No 3 Any Tax Withheld?  Yes  No 4 Number of Sheet's Attached

**Part I - Background Information**

5 Taxpayer Identification Number (TIN) - - - - 6 RDO Code - - - -

7 Withholding Agent's Name (Last Name, First Name, Middle Name for Individuals OR Registered Name for Non-Individuals)

8 Registered Address (Indicate complete address. If branch, indicate the branch address. If the registered address is different from the current address, go to the RDO to update registered address by using BIR Form No. 1905)

9 Contact Number 8A ZIP Code

10 Category of Withholding Agent  Private  Government

11 Email Address

12 Are you availing of tax relief under Special Law or International Tax Treaty?  Yes  No 12A If Yes, specify

**Part II - Computation of Tax**

	ATC	Tax Base	Tax Rate	Tax Withheld
13			%	
14			%	
15			%	
16			%	
17			%	
18	Total Taxes Withheld (Sum of Items 13 to 17)			
19	Less: Taxes Remitted in Return Previously Filed, if this is an Amended Return			

Siegwerk-PH is required to withhold this VAT using BIR Form 1600

**BIR REJECTS MFN CLAUSE INVOCATION IN CROSS-BORDER ROYALTY TAX  
PREFERENTIAL TAX RATE DENIED DUE TO TREATY RELIEF MISMATCH  
FULL TAX BURDEN IMPOSED ON ROYALTIES DESPITE MFN CLAIM**



**BIR ITAD RULING 016-25, APRIL 14, 2025**



- A domestic corporation entered into a licensing agreement with a U.S. university to offer an MBA program
- Under the agreement, royalties equal to 20% of course fees per student were paid
- IAcademy sought a 10% preferential tax rate using the PH-US Tax Treaty & invoking the MFN clause with reference to the PH-UAE Tax Treaty



- ❑ Whether MFN clause under the PH-US Tax Treaty can reduce royalty tax to 10% based on PH-UAE Treaty



**DENIED**

MFN clause not applicable due to differing double taxation relief methods between PH-US (limited credit) & PH-UAE (full deduction)



- ❑ Royalties subject to 25% income tax under PH-US Tax Treaty
- ❑ 12% VAT applies on royalties for use of intellectual property in PH
- ❑ VAT to be withheld & remitted by PH entity



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DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



Article 13(2)(b)(i) of the PH-US Tax  
Treaty; and Sections 105 and 108  
of the National Internal Revenue  
Code of 1997, as amended  
BIR Ruling No. ITAD 011-25

14 APR 2025

**RETRANSMISSION OF COPYRIGHTED AUDIOVISUAL CONTENTS QUALIFIES AS  
ROYALTY UNDER PH-US & PH-UAE TAX TREATIES, BUT NON-COMPLIANCE WITH  
ALL MFN CLAUSE CONDITIONS PRECLUDES ITS APPLICATION**



- ❑ Signal is seeking confirmation from the BIR regarding the proper tax treatment of royalty payments made to Turner

# FACTS



vs



**Mar. 15, 2012 - Mar. 31, 2015**

**Mar. 04, 2015**

Contract span unless terminated earlier



Parties entered into a Licence Agreement

# FACTS

Signal TV Inc.

vs



## PROGRAM SERVICES

- CNN International
- Cartoon Network
- truTV
- CNN International HD
- Cartoon Network HD
- Toonami
- Warner TV



International



- Signal & Tuner entered into a Licence Agreement, in which Turner granted to Signal a non-exclusive license to retransmit the 24-hour television programming services

# RULING

Cignal TV Inc.

vs



## INCOME TAX

❑ Under **Sec 28(B)(1) NIRC**, a foreign corporation not engaged in business in the Philippines is taxed **25%** on **gross income** from sources within PH

❑ payments made by Cignal to Turner for broadcasting rights were classified as **royalties** under both **PH-US & PH-UAE Tax Treaties**



# RULING

Signal TV Inc.

vs



↓  
10%



**VALID**  
**ONLY**



- Article 13(2)(b)(i) provides a **25%** Philippine tax rate on royalties paid to a U.S. resident
- This may be reduced **only** if MFN clause in **Art 13(2)(b)(iii)** is validly invoked
- Signal tried to use the MFN clause from PH-US Treaty to apply the **lower 10%** royalty tax rate under the **PH-UAE Tax Treaty**

# RULING

Cignal TV Inc.

vs



## DOUBLE TAXATION



**DIFFERENT**

- ❑ Because the 2 treaties employ **different mechanisms** for double taxation relief, **MFN clause cannot apply**



**25%**

Withholding Tax

- ❑ Thus, **royalty payments** by Cignal to Turner are subject to **25% withholding tax rate** under **Art 13(2)(b)(i)** of PH-US Tax Treaty

# RULING

## VALUE ADDED TAX

- ❑ Pursuant to **Sec 105 & 108 NIRC**, the lease or use of intellectual property in PH is considered a **sale or exchange of services** & is therefore **subject to 12% VAT** based on the **gross amount of royalties**

Signal TV Inc.

vs



Signal TV Inc.



- ❑ Signal is required to **withhold 12% VAT** from payments made to Turner
- ❑ withheld VAT must be **remitted to the BIR within 10 days** after the end of the month in which the withholding was made

**SHOULD SERVICE PAID ABROD BE SUBJECTED TO  
FWT & FVT?**



**REMUNERATION FOR SERVICES RENDERED IN PH IS  
TAXABLE UNDER ART 14 OF PH-SINGAPORE TAX  
TREATY IF IT IS PAID BY & BORNE BY, A PERMANENT  
ESTABLISHMENT LOCATED IN PH**

**SERVICE FEE PAID TO A CORPORATION WITH  
PERMANENT ESTABLISHMENT IN THE CONTRACTING  
STATE IS SUBJECT TO INCOME TAX & VAT PURSUANT  
TO TAX TREATY & DOMESTIC TAX LAW**

**BIR ITAD RULING 023-25**



**APRIL 24, 2025**

## FACTS

- ❑ domestic corporation under Ph law

Inter-Entity Service Agreement



- ❑ resident of Singapore as certified by the Inland Revenue Authority of Singapore
- ❑ engaged in repairing ships, converting, demolition, altering ships





## MAN PH shall provide

1. Engineers & technicians
2. assist with the installation & commissioning of engines
3. render advice on technicalities & troubleshoot problems

**MAN SG**

- services will be performed in PH
- shall not exceed an aggregate period of 183 days

- 
- Is the service fee paid to MAN SG exempt from income tax?



**IN REPLY**

**Sec 28(B)(1) of  
CREATE Act**



NRFC are generally subject to a 25% tax on gross income derived from PH sources

However, tax treaty provisions may override domestic laws.

PH-Singapore Tax Treaty limits the taxation rights of PH to income attributable to a permanent establishment (PE)



A PE is deemed to exist if services are provided in PH for **more than 183 days**, regardless of whether contracts are separate

- ❑ MAN SG was found to have a PE in PH
- ❑ having provided services for **275 days**
- ❑ Therefore, its profits attributable to that PE are taxable in PH



Personnel	Arrival	Departure	Length of Stay
[REDACTED]	January 4, 2018	January 5, 2018	2
[REDACTED]	January 11, 2018	January 13, 2018	3
[REDACTED]	January 22, 2018	January 27, 2018	6
[REDACTED]	February 07, 2018	May 07, 2018	90
[REDACTED]	February 09, 2018	February 11, 2018	
[REDACTED]	March 15, 2018	March 16, 2018	
[REDACTED]	March 17, 2018	March 20, 2018	
[REDACTED]	April 06, 2018	April 11, 2018	
[REDACTED]	April 07, 2018	April 10, 2018	
[REDACTED]	May 17, 2018	May 20, 2018	
[REDACTED]	May 18, 2018	May 20, 2018	
[REDACTED]	May 24, 2018	May 27, 2018	4
[REDACTED]	August 07, 2018	August 17, 2018	11
[REDACTED]	September 2, 2018	September 4, 2018	3
[REDACTED]	September 14, 2018	September 27, 2018	14
[REDACTED]	September 19, 2018	September 21, 2018	
[REDACTED]	October 13, 2018	October 26, 2018	14
[REDACTED]	January 9, 2019	Jan 12, 2019	4
[REDACTED]	January 15, 2019	May 06, 2019	112
[REDACTED]	January 29, 2019	February 06, 2019	
[REDACTED]	April 30, 2019	May 05, 2019	
[REDACTED]	April 25, 2019	May 05, 2019	
[REDACTED]	April 30, 2019	May 05, 2019	
[REDACTED]	June 7, 2019	June 09, 2019	3
[REDACTED]	June 25, 2019	June 27, 2019	3
<b>Total</b>			<b>275</b>

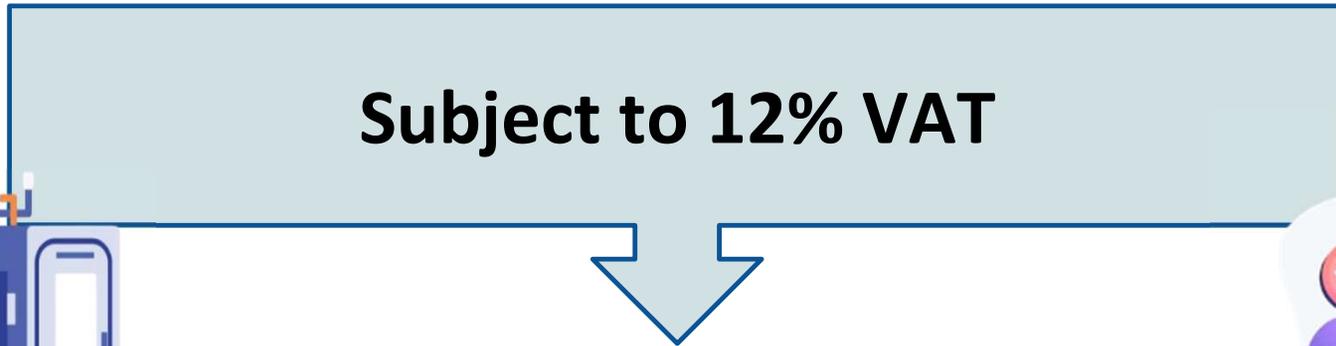
2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting State for personal (including professional) services performed in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:
- a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 90 days in the case of professional services and 183 days in other cases, in the calendar year concerned; and
  - b) the remuneration or income is paid by, or on behalf of, a person who is a resident of the first-mentioned Contracting State; and
  - c) the remuneration or income is not borne directly by a permanent establishment which that person has in the other Contracting State.”

## Art 14 PH- Singapore Tax Treaty

---

- Although the employees were in the country for less than 183 days & were paid by MAN SG
- Third condition was not met
- Thus, the employees' incomes are taxable in PH





Services performed outside PH are  
not subject to VAT



**ON VAT ZERO-RATING ON LOCAL PURCHASES BY  
INTERNATIONAL ORGANIZATIONS**

- **BIR AFFIRMS VAT ZERO-RATING FOR AUSTRALIAN-FUNDED JUSTICE PROGRAM UNDER INTERNATIONAL AGREEMENT**
- **BIR RECOGNIZES GADC AS THE BASIS FOR VAT EXEMPTIONS, REINFORCING TREATY OBLIGATIONS**
- **TAX BENEFITS ARE GRANTED ONLY FOR GOODS & SERVICES DIRECTLY RELATED TO PROGRAM IMPLEMENTATION**

**BIR ITAD RULING 027-25**

**MAY 6, 2025**



**TETRA TECH**  
International Development

Australian-registered company

**Engaged By:** Australian Government's  
Department of Foreign Affairs & Trade (DFAT)

- ❑ **Project:** FAIR JUSTICE PROGRAM (PH, 2024–2029)
- ❑ **PH Government Approval:** Supreme Court approval on January 30, 2024
- ❑ **Funding:** Fully funded by the Government of Australia

## Program Alignment

- ❑ **PH Development Plan: 2023–2028**
- ❑ **Supreme Court Judicial Plan: Strategic Plan for Judicial Innovations 2022–2027**
- ❑ **Nature of the Program:** Official development assistance aligned with PH priorities



## Request for Ruling



**□ Requesting Party:**

Australian Embassy

**□ Purpose:** To confirm VAT treatment of TTIDP Ltd.'s procurement activities

**□ Legal Basis Cited:** General Agreement on Development Cooperation (GADC) between PH & Australia

## BIR Ruling Highlights

### Applicable Legal Provisions:

- GADC Article 7(1)(a)
- NIRC Provisions:** Sec 106(A)(2)(b), 108(B)(3) & 109(1)(K)

Type of Procurement	VAT Treatment
<ul style="list-style-type: none"><li><input type="checkbox"/> Local procurement of goods/services</li><li><input type="checkbox"/> Direct importation of goods</li></ul>	0% VAT (zero-rated) VAT-exempt

## Limitations of the VAT Privileges

**Scope:** Strictly limited to transactions necessary for the FAIR JUSTICE PROGRAM

**Exclusion:** Does not apply to TTIDP Ltd.'s other unrelated business activities in PH

**Condition:** Ruling is fact-based & becomes void if material misrepresentations are discovered



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DEPARTMENT OF FINANCE  
**BUREAU OF INTERNAL REVENUE**



Article 10(2) of the PH-Korea  
Tax Treaty

BIR Ruling No. ITAD **013-25**

**14 APR 2025**

**Yeonho Electronics Manufacturing  
Philippines, Inc.**  
Block 4, Lot 6-9, Phase I  
First Cavite Industrial Estate, Barangay Langkaan  
Dasmariñas City

# TAXATION OF DIVIDENDS UNDER PH-KOREA TAX TREATY: YEMPI CASE

Yeonho Electronics Manufacturing PH, Inc



Y, Resident of Korea



Article 10 PH-Korea Tax Treaty  
 10% preferential tax rate

SEC 25(B) NIRC AS AMENDED BY TRAIN & CREATE  
 25% tax rate

## FACTS: YEMPI CASE

### YEMPI

- Incorporated under PH Laws
- Declared cash dividends, as per the Secretary's Certificate dated August 1, 2024

### Y, Resident of Korea

- Owns **100%** of YEMPI's outstanding common shares. Thus, entitled to receive the **entire dividends**



**Dividends**



# TAXATION OF DIVIDENDS FOR NRA-NETB, NIRC CODE

**Nonresident Alien Individual Not Engaged in Trade or Business (NRA-NETB) - 25% tax rate on income received from all sources within the Philippines. SEC 25(B) NIRC**

**However, Income of any kind, to the extent required by any treaty obligation. SEC 32(B)(5), NIRC**

Y, NRA-NETB



# TAXATION OF DIVIDENDS UNDER PH-KOREA TAX TREATY

10% is applied only in 2 instances:

1st: The beneficial owner of the dividends is a **company** that directly holds **at least 25%** of the company paying the dividends ART 10(2)(a), PH-KOREA TAX TREATY

Y, Not a  
company



Ownership  
requirement

25%  


Hence, Y, cannot claim the preferential tax rate of 10% under Ar 10(2)(a)

# TAXATION OF DIVIDENDS UNDER PH-KOREA TAX TREATY

**10% is applied only in 2 instances:**

2nd: The company paying the dividends is;

- Resident of PH
- Registered with the Board of Investments (BOI)
- Engaged in preferred pioneer areas of investment under PH investment incentives laws

ART 10(3), PH-KOREA TAX TREATY



YEONHO  
ELECTRONICS



Resident Company

Registered with BOI

Pioneer Areas



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Article 13(2)(b)(i) of the PH-US Tax  
Treaty; Sections 105 and 108 of the  
National Internal Revenue Code of  
1997, as amended

BIR Ruling No. ITAD **020-25**

**14 APR 2025**

**GALLARDO SONGCO & ASSOCIATES**

Unit 300 Valero Plaza  
124 Valero St., Salcedo Village  
1227 Makati City

Gentlemen:

This refers to your request for confirmation that the royalties **Bistro Americano Corp. (BAC)** paid to **DFO LLC (DFO)**, a resident of the United States of America, are subject to the preferential income tax rate of 10%.



## Multiple Unit Franchise Agreement



Whether royalties paid are subject to preferential rate of 10%

# FRANCHISE AGREEMENT



## Initial Franchise Fee



## Continuing Franchise Fee

- 1% Licensing fee
- 3.5% Franchise service fee

# TAX ON NON-RESIDENT FOREIGN CORPORATIONS



- ❑ Effective **Jan 1, 2009**, NRFCs not engaged in business in PH are taxed **25% on gross income** from PH sources.

- ❑ Income is **exempt from tax** if covered by a **tax treaty** binding on the PH [SEC 32(B)(5)NIRC]



# PH-US Tax Treaty

“Most favored nation clause”

THE  
BISTRO GROUP

## “Article 13 ROYALTIES

1. Royalties derived by a resident of one of the Contracting States from sources within the other Contracting State may be taxed by both Contracting States.
2. However, the tax imposed by that other Contracting State shall not exceed:
  - a) In the case of the United States, 15 percent of the gross amount of the royalties, and
  - b) In the case of the Philippines, the least of:
    - (i) 25 percent of the gross amount of the royalties,
    - (ii) 15 percent of the gross amount of the royalties, where the royalties are paid by a corporation registered with the Philippine Board of Investments and engaged in preferred areas of activities, and
    - (iii) **the lowest rate of Philippine tax that may be imposed on royalties of the same kind paid under similar circumstances to a resident of a third State.** (Emphasis supplied)

## CONDITIONS FOR MOST FAVORED NATION CLAUSE

**similarity in subject matter**



DFO granted BAC the right to develop & operate Denny's in PH, including the use of its brand & trademarks, making the payments received by DFO taxable as royalties

**similarity in circumstances in the payment of tax**



2 treaties provide differing mechanisms for addressing double taxation

- BAC failed to establish the required elements to validly invoke the "**most favored nation**" clause under PH-US Tax Treaty in connection with PH-UAE Tax Treaty



- royalties it paid by BAC to DFO for the rights granted by the latter are **subject to PH income tax at the rate of 25%**



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF INTERNAL REVENUE**

Article 13
PH-India Tax Treaty
BIR Ruling No. ITAD 029-25

07 MAY 2025.

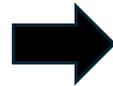
**Nezda Technologies, Inc.**  
Unit 501, 5<sup>th</sup> Floor  
Rufino Pacific Building  
6784 Ayala Avenue  
Makati City



Nezda India granted Nezda Ph a right & license to use the Nezda Trademark



Tax Treaty Relief Application



Preferential  
income tax rate  
**15%**



PH-India  
Tax Treaty

## BIR ITAD Ruling

PH-India  
Tax Treaty

1. recipient is the beneficial owner of the royalties &
2. royalties are payable by an enterprise registered with the BOI



Nezda Ph is not  
registered with BOI



Royalties are not subject to the  
preferential income tax rate of 15%



Subject to the **regular tax rate**  
under the Tax Code





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DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



Article 13(2)(b)(i) of the PH-US Tax  
Treaty; and Sections 105 and 108  
of the National Internal Revenue  
Code of 1997, as amended

BIR Ruling No. ITAD 021-25

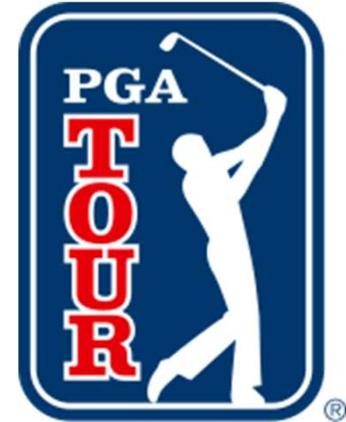
14 APR 2025

## Audio-Visual Media Rights Agreement



Philippines

Royalty payments



United States

PGA granted Signal the right to telecast the live tournament programming, clips & replays, tournament footage & ancillary programming for exhibition in PH

## BIR ITAD Ruling



Most Favored Nation Clause under the PH-US Tax Treaty



### 1. Similarity in subject matter

- Broadcasting is a form of communication to the public & an economic right of the copyright owner
- Transaction involved the use or right to use of cinematographic films or tapes for television broadcasting
- Considered royalties in both PH-US & PH-UAE Tax Treaties

## 2. Similarity in mechanism of relief from double taxation

- ❑ **PH-US Tax Treaty** adopted the ordinary credit method
- PH-UAE Tax Treaty** adopted the full credit method

Failed to invoke  
the MFN Clause



**25%**

Income tax

Pursuant to PH-US Tax Treaty



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for Nation-Building

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE



Article 13(2)(b)(i) of the PH-US Tax  
Treaty; and Sections 105 and 108 of  
the National Internal Revenue Code  
of 1997, as amended

BIR Ruling No. ITAD **022-25**

14 APR 2025



Trademark &  
Copyright  
License Agreement



**HEARST**  
magazines

United States

Royalty payments



Hearst grants to Summit the right to use Hearst trademark, distribute Cosmopolitan & Esquire magazines in the Ph & to develop & use the domain names [www.cosmo.ph](http://www.cosmo.ph) & [www.esquiremagazine.ph](http://www.esquiremagazine.ph)

**COSMOPOLITAN**

**Esquire**

## BIR ITAD Ruling

### MFN Clause under the PH-US Tax Treaty



#### 1. Similarity in subject matter

- Domain names are treated the same way as trademarks; it constitutes royalties

#### 2. Similarity in mechanism of relief from double taxation

- PH-US Tax Treaty** uses the ordinary credit method; **PH-UAE Tax Treaty** adopts the full credit method

Failed to invoke  
the MFN Clause



**25%** Income tax

**TP IS ENTITLED TO REDUCED RATE OF 10% ON DIVIDENDS UNDER TAX  
TREATY**

**WHILE THE COURT LAUDS THE BIR IN ITS EFFORT TO STREAMLINE THE  
PROCESS FOR TTRAs, THE PH' COMPLIANCE WITH ITS TREATY OBLIGATIONS  
CANNOT BE SACRIFICED IN THE PROCESS**

**NON-COMPLIANCE WITH THE PRESCRIBED PERIOD DOES NOT DISQUALIFY AN  
APPLICANT FROM AVAILING ITSELF OF THE BENEFITS OF A TAX TREATY**

**THE SECRETARY OF FINANCE VS. EGIS ROAD OPERATIONS, S.A.**

**[GR 247748, JANUARY 30, 2023]**





→ filed a Petition for Review on Certiorari assailing the earlier Decision & Resolution of CTA EB affirming the Decision & Resolution of CTA 3rd Division qualifying Egis to avail of the reduced tax rate on dividends

- ❑ Grants a reduced tax rate of 10% in dividends paid by either PH or French corp to a resident of the other Contracting State, as the case may be, provided that the conditions are met [RP-FRENCH TAX TREATY]





# RULING

- ❑ Non-compliance with the prescribed period **does not disqualify** an applicant from availing itself of the benefits of a tax treaty
- ❑ Dividend payments to Respondent met the requisites, thus, 10% reduced tax rate [ART 10 RP-FRANCE TAX TREATY]
- ❑ Petition was **DENIED**
- ❑ Decision & Resolution were **AFFIRMED**





Agencia Tributaria

---

**CERTIFICATES OF FISCAL RESIDENCE FOR THE PURPOSES OF  
ANY DOUBLE TAXATION AGREEMENT WITH A SECURE  
VERIFICATION CODE**

The Secure Verification Code (CSV) guarantees, by means of a collation in the electronic office of the Tax Agency, the integrity of the document and is regulated in Article 21 of Royal Decree 203/2021, of 30 March, which approves the Regulations on the action and operation of the public sector by electronic means.

*Article 21. Signature systems based on secure verification code for automated administrative action.*

*1. In accordance with the provisions of Article 42.b) of Law 40/2015, of 1 October, Public Administrations may use secure code systems for document verification in the development of automated actions.*

*This code will bind the body, public body or public law entity and, where appropriate, the person signing the document, allowing in any case the verification of the integrity*

Sec. 28 (B)(5)(b), Tax Code
BIR Ruling No. ITAD 004-23

OT- 007 - 2024
----------------

JAN 24, 2024
--------------

**Sycip Salazar Hernandez & Gatmaitan**  
SyCip Law Center, 105 Paseo de Roxas  
Makati City

## **AVAILMENT OF LOWER DIVIDENDS TAX UNDER EXISTING TAX TREATY**

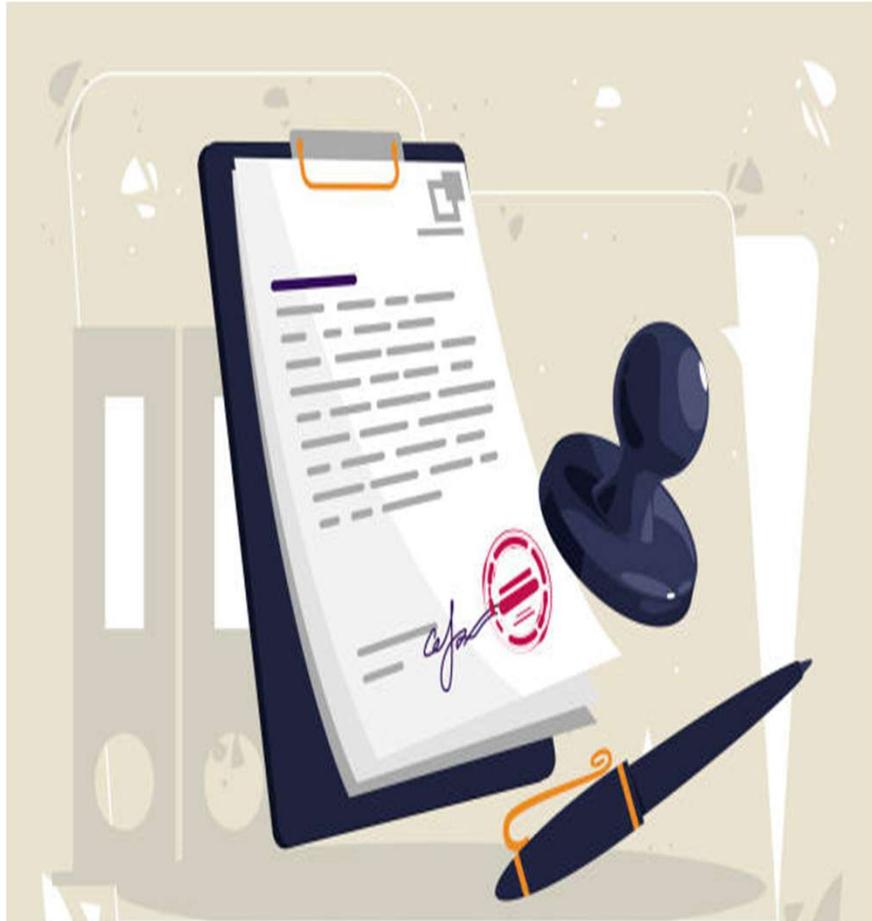
This refers to your request for a ruling confirming that cash distributions received by **Mercury Media Holdings Finance I, Ltd.** (“**Mercury Media**”) arising from **Philippine Depository Receipts (“PDRs”)** issued by **ABS-CBN Holdings Corporation** (“**ABS Holdings**”) over shares of stock in **ABS-CBN Corporation** (“**ABS-CBN**”) are cash dividends for Philippine income tax purposes; and subject to the tax sparing rate of



**MercuryMedia**

**MERCURY MEDIA IS  
NOT A SHAREHOLDER  
OF ABS-CBN,  
THEREFORE, IT IS NOT  
ELIGIBLE TO RECEIVE  
DIVIDENDS SUBJECT TO  
THE 15% SPARING RATE**

**BIR ITAD RULING 004-23 OT-007-2024, JANUARY 24, 2024**



PHILIPPINE DEPOSITARY  
RECEIPT (PDR)

- ❑ 1 share of ABS Holding in ABS CBN correspond to 1 PDR
- ❑ Mercury Media is a PDR holder issued by ABS Holding
- ❑ PDR holder may be considered a shareholder & recipient of dividends if it has an option to purchase the share underlying the PDR

- ❑ Dividends paid by a domestic corporation to a NFRC are **subject to a lower income tax of 15% if:**
  - ❑ NFRC must have **received dividends** from a domestic corporation
  - ❑ country residence of NFRC **allows a credit against the tax due** from the 15% PH taxes paid by NFRC SEC 28(B)(5)(b) NIRC



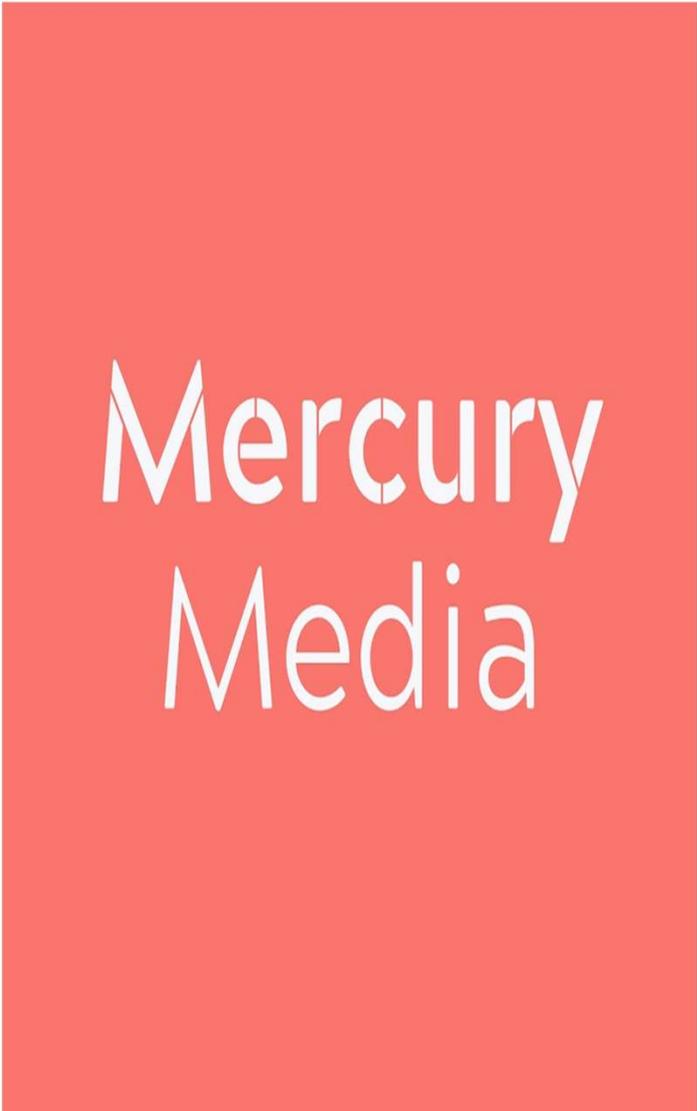


- ❑ PDR instrument: person receiving the shares is allowed by PH law to own those shares
- ❑ If PDR holder is allowed by PH law he may exercise the option to purchase the shares, which makes him a shareholder eligible to receive dividends



- ❑ PH Constitution: Mass media corporations, cooperatives, or associations
  - ❑ such as ABS-CBN
  - ❑ **are exclusively permitted to be fully owned & managed by Filipino citizens**

- ❑ BIR: cash distribution to Mercury Media **are not dividends**
- ❑ Mercury Media is **NOT** a corporation wholly owned by Filipino Citizens
- ❑ **Does not have legal right or option** under the PDR instrument to purchase ABS CBN shares
- ❑ **Not a shareholder & not entitled to receive dividends**

The logo for Mercury Media, featuring the words "Mercury" and "Media" stacked vertically in a white, sans-serif font against a solid red background.

Mercury  
Media

- ❑ cash distributions received by Mercury Media from ABS Holdings **ARE NOT** cash dividends subject to a lower income tax rate of 15%
- ❑ **cash distribution are interest subject to 30% [25% under CREATE Law] income tax**





Republika ng Pilipinas  
Kagawaran ng Pananalapi  
Kawanihan ng Rentas Internas

### eFPS Payment Details

TIN : [REDACTED]  
Name : [REDACTED] RP.  
Tax Period : 10/31/2022  
Reference Number : 442200050740859  
Tax Type : WF - Monthly Remittance Form of Final Income Taxes Withheld

Payment Transaction Number : 220900221  
Date : 11/10/2022  
Cash Amount Paid : 79,677,298.50  
Bank : 176000 - BANCNET-CHINATRUST

Origin	Bank Code	Amount	Number	Date	Status	Message	CBR BCS No.
Online Confirmation	176000	79,677,298.50	650638	11/10/2022	Authorized	0 - Successful	55075
Batch Confirmation	176000	79,677,298.50	00000020221112650638	11/11/2022	Authorized	0 - Successful	55075
Batch Acknowledgment	176000	79,677,298.50	00000020221112650638	11/11/2022	Authorized	0 - Successful	55075

**Total Payments (Successful/Unsuccessful): 79,677,298.50**

**Total Payments (Successful) : 79,677,298.50**

Print

Close

**ARE INTEREST PAYMENTS PAID ABROAD SUBJECT  
TO FINAL WITHHOLDING TAX?**



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF INTERNAL REVENUE**

Paragraph 2, Article 11 (Interest)  
of the Convention between the  
Republic of the Philippines and  
the Republic of Singapore for the  
Avoidance of Double Taxation  
and the Prevention of Fiscal  
Evasion with Respect to Taxes  
on Income

BIR Ruling No. ITAD 001 - 25

07 JAN 2025

**DENSO PHILIPPINES CORPORATION**  
109 Unity Avenue Special Economic Zone  
Carmelray Industrial Park, Canlubang  
4027 Calamba City



***DENSO***

**INTEREST MUST COME FROM PUBLICLY ISSUED BONDS, DEBENTURES, OR SIMILAR OBLIGATIONS TO QUALIFY FOR THE 10% PREFERENTIAL TAX RATE**

**BIR ITAD RULING 001-25, JANUARY 7, 2025**



- ❑ **Denso Co. (Philippines)** paid interest to **Denso SG (Singapore)**
- ❑ loans were privately issued & not offered to the general public
- ❑ Denso SG claimed a 10% tax rate under the PH-SG Tax Treaty



- Whether interest payments made by **Denso PH** to **Denso SG** qualify for the **10% preferential tax rate** under the **PH-SG Tax Treaty**
- Whether the loan agreements are **subject to DST**

## Denso PH's

## BIR

### ARGUMENTS

- ❑ Interest income should be taxed at 10% based on ART 11 PH-SG TAX TREATY

- ❑ 10% rate only applies to publicly issued bonds, debentures, or similar obligations
- ❑ Since loans were not publicly issued, interest should be taxed at 15%, not 10%
- ❑ Loan agreements are subject to DST, payable by **Denso PH** as the borrower



- ❑ interest payments do not qualify for 10% preferential tax rate
- ❑ 15% withholding tax applies instead
- ❑ loan agreements are subject to DST, to be paid by **Denso PH**



- ❑ Denso SG must pay a 15% tax rate on interest income
- ❑ Denso PH must pay DST per loan agreement provisions

**ARE SERVICE FEES PAID ABROAD SUBJECT  
TO FINAL WITHHOLDING TAX?**



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE

Articles 5 (Permanent Establishment)  
and 7 (Business Profits)  
Philippines-Thailand Tax Treaty  
Sections 28(B)(1), 107(A) and 108(A)  
National Internal Revenue Code, as  
amended

BIR Ruling No. ITAD 003-24

Date: 23 FEB 2024

**SIEMENS POWER OPERATIONS, INC.**  
1500 MW CCPS  
4200 Sta. Rita, Batangas City

Gentlemen:

This refers to your tax treaty relief applications filed on October 17, 2018 requesting confirmation that service fees paid by **Siemens Power Operations, Inc.** (SPOI) to **Professional Insulation Co., Ltd.** (PICL) are exempt from income tax pursuant to Article 7 (Business Profits), in relation to Article 5 (Permanent Establishment), of the original Convention between the Government of the Republic of the Philippines and the Government of the Kingdom of Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (old PH-Thailand Tax Treaty).<sup>1</sup>

# FACTS



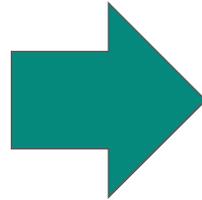
**Professional Insulation  
Co., Ltd (PICL)**

- ❑ foreign corporation organized & existing under the laws of Thailand
- ❑ Resident of Thailand based on the Certificate issued by Department of Business Development of Thailand & on the Certificate of Residence issued by Revenue Department of Thailand
- ❑ Engaged in the construction of buildings, commercial complexes & in the installation of temperature control in industrial, petrochemical

# FACTS



**Professional Insulation  
Co., Ltd (PICL)**



- ❑ not registered as a corporation or partnership in PH based on the Certificate of Non-Registration of Company issued by SEC

FACTS

SIEMENS

- engaged in the operation & maintenance of power plants in the PH



**Siemens Power  
Operations Inc (SPOI)**

# FACTS



**SIEMENS**



- ❑ Feb 29, 2016, Feb 21, 2017, May 17, 2017 & Sept 9, 2017-SPOI issued Purchase Order to PICL to procure relevant items & manpower to address the former's major plant outage at its Sta. Rita & San Lorenzo Power Stations in Batangas City
- ❑ Payable within 60 days from the date of invoice issued by PICL

# FACTS

SIEMENS



Based on the Certifications issued by SPOI on July 1, 2016 & Aug 9, 2017, the Purchase Orders represent the contract between SPOI & PICL are the primary proof of transaction between the parties

# RULINGS

## Income Tax

***“SEC. 28. Rates of Income Tax on Foreign Corporations. –***

*X X X*

***(B) Tax on Nonresident Foreign Corporation. –***

***(1) In General. – Except as otherwise provided in this Code, a foreign corporation not engaged in trade or business in the Philippines shall pay a tax equal to thirty-five percent (35%) of the gross income received during each taxable year from all sources within the Philippines, such as interests, dividends, rents, royalties, salaries, premiums (except reinsurance premiums), annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits and income, and capital gains, except capital gains subject to tax under subparagraph 5(c): Provided, That effective 1, 2009, the rate of income tax shall be thirty percent (30%).”<sup>2</sup>***

- ❑ Income derived by NRFC from all sources within PH is subject to income tax at the rate of 30% [now 25%] based on the gross amount thereof [SEC 28(B)(1) NIRC]

# RULINGS

## Income Tax

**"SEC. 32. Gross Income. –**

x x x

**(B) Exclusions from Gross Income. –** The following items shall not be included in gross income and shall be exempt from taxation under this Title:

4

x x x

**(5) Income Exempt under Treaty. –** Income of any kind, to the extent required by any treaty obligation binding upon the Government of the Philippines."

- Under Sec 32(B)(5)NIRC
- such income is exempt to the extent required by any treaty obligation binding upon PH gov't

# RULINGS

## Ph-Thailand Tax Treaty

**"Article 7  
BUSINESS PROFITS**

- 1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment."*

- profits of an enterprise of a Contracting State shall be taxable only in that State
- unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein

# RULINGS

## Ph-Thailand Tax Treaty

**"Article 7  
BUSINESS PROFITS**

- 1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment."*

- If enterprise carries on or has carried on business as aforesaid
- Profits may be taxed in the other State but only so much of them as is attributable to the permanent establishment

# RULINGS

## **"Article 5 PERMANENT ESTABLISHMENT**

1. *For the purposes of this Convention, the term 'permanent establishment' means a fixed place of business through which the business of the enterprise is wholly or partly carried on.*
2. *The term 'permanent establishment' includes especially:*
  - a) *a place of management;*
  - b) *a branch;*
  - c) *an office;*
  - d) *a factory;*
  - e) *a workshop;*
  - f) *a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;*

- g) *a building site or construction project where such site or project continues for a period of more than six months;*
- h) *an assembly or installation project which exists for more than three months;*
- i) *premises used as a sales outlet;*
- j) *a warehouse, in relation to a person providing storage facilities for others;*
- k) *the furnishing of services, including consultancy services, by a resident of one of the Contracting States through employees or other personnel, provided activities of that nature continue (for the same or a connected project) within the other Contracting State for a period or periods aggregating more than 183 days."*

term permanent establishment is defined under paragraphs 1 & 2 of Article 5

# RULINGS

- ❑ While PICL does not have a fixed place of business in PH
- ❑ it, however, furnished services in PH through its employees for 186 days

Purchase Order	Name of Employee	Date of Arrival	Date of Departure	Duration of Stay
4506548521	[REDACTED]	July 22, 2016	July 31, 2016	23
	[REDACTED]		August 13, 2016	
	[REDACTED]	August 15, 2016	August 28, 2016	14
	[REDACTED]	August 21, 2016	August 26, 2016	
	[REDACTED]	October 21, 2016	October 26, 2016	6
	[REDACTED]			
	[REDACTED]	November 11, 2016	November 22, 2016	15
[REDACTED]	November 25, 2016			
4507316662	[REDACTED]	February 24, 2017	March 27, 2017	44
	[REDACTED]		April 8, 2017	
4507502440	[REDACTED]	June 2, 2017	June 11, 2017	20
	[REDACTED]		June 21, 2017	
	[REDACTED]	June 16, 2017	June 21, 2017	
4507754142	[REDACTED]	September 20, 2017	September 26, 2017	28
	[REDACTED]		October 17, 2017	
	[REDACTED]	October 7, 2017	October 13, 2017	36
	[REDACTED]	October 12, 2017	October 16, 2017	
	[REDACTED]	October 26, 2017	November 2, 2017	
	[REDACTED]	October 27, 2017	November 30, 2017	
	[REDACTED]	November 20, 2017	November 26, 2017	
<b>TOTAL</b>				<b>186 days</b>

# RULINGS

- ❑ It is worth emphasizing that PO Nos. 4506548521 & 4507754142 cover the same project, i.e., to address the major outage of Unit 10, while PO Nos. 4507316662 & 4507502440 cover connected projects, specifically, to address the major outage of Units 50 & 20/30, respectively
- ❑ Therefore, it cannot be doubted that the activities or services performed by PICL were for the same or connected projects



# RULINGS



- ❑ Since PICL furnished services in Ph for a period or periods aggregating more than 183 days, it is, therefore,
- ❑ deemed to have a permanent establishment in PH pursuant to ART 5(2)(k) of the old PH-Thailand Tax Treaty

# RULINGS



- ❑ income derived by PICL from the goods & services it delivered & provided to SPOI in 2016 & 2017 are subject to 30% [now 25% under CREATE Law] income tax in PH under SEC 28(B)(1) NIRC, in relation to Article 7(1) of the tax treaty



**25%**

# RULINGS

## Value-Added Tax

**"SEC. 107. Value-Added Tax on Importation of Goods. –**

**(A) In General.** – There shall be levied, assessed and collected on every importation of goods a value-added tax equivalent to ten percent (10%) based on the total value used by the Bureau of Customs in determining tariff and customs duties, plus customs duties, excise taxes, if any, and other charges, such tax to be paid by the importer prior to the release of such goods from customs custody: Provided, That where the customs duties are determined on the basis of the quantity or volume of the goods, the value-added tax shall be based on the landed cost plus excise taxes, if any: Provided, further, That the President, upon the recommendation of the Secretary of Finance, shall, effective January 1, 2006, raise the rate of the value-added tax to twelve percent (12%)...<sup>13</sup>

- importation by SPOI of goods described in the purchase orders is **subject to VAT at the rate of 12%** [SEC 107(A) NIRC]

# RULINGS

## Value-Added Tax



**SIEMENS**

- ❑ tax is based on the total value used by BOC in determining tariff & customs duties, plus customs duties, excise taxes, if any & other charges
- ❑ which shall be paid by importer (SPOI) prior to the release of items goods from customs custody

# RULINGS

## Value-Added Tax

***“SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. –***

***(A) Rate and Base of Tax. – There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties: Provided, that the President, upon the recommendation of the Secretary of Finance, shall, effective January 1, 2006, raise the rate of value-added tax to twelve percent (12%)...<sup>14</sup>***

- Gross receipts derived by PICL from services it rendered to SPOI are subject to 12% VAT

# RULINGS

## Value-Added Tax

- ❑ SPOI shall withhold the 12% VAT before making any payment to PICL, which shall, in turn, be remitted to BIR within 10 days ff the end of the month the withholding was made by using BIR Form 1600 or BIR Form 1600-VT, whichever is applicable.
- ❑ duly filed form & its accompanying proof of payment shall serve as documentary substantiation for SPOI's claim of input VAT on the service fees



BIK FORM NO.

**2306**

January 2018 (ENCS)

# Certificate of Final Tax Withheld at Source



2306 01/18ENCS

Fill in all applicable spaces. Mark all appropriate boxes with an "X".

1 For the Period From  (MM/DD/YYYY) To  (MM/DD/YYYY)

### Part I – Income Recipient/Payee Information

2 Taxpayer Identification Number (TIN)

3 Payee's Name (Last Name, First Name, Middle Name for Individual OR Registered Name for Non-Individual)

4 Registered Address  4A ZIP Code

5 Foreign Address, if applicable  5A ICR No. (For Alien Payee Only)

### Part II – Withholding Agent/Payor Information

6 Taxpayer Identification Number (TIN)

7 Payor's Name (Last Name, First Name, Middle Name for Individual OR Registered Name for Non-Individual)

8 Registered Address  8A ZIP Code

### Part III – Details of Income Payment and Tax Withheld (Attach additional sheet if necessary)

Nature of Income Payment	ATC	Amount of Payment	Tax Withheld
On other payments to NRFCs	WC230	EUR 29,239.48	EUR 7,309.87
		PHP 1,651,358.11	PHP 412,839.53

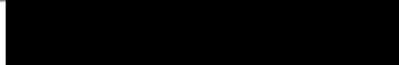
pursuant to the provisions of the National Internal Revenue Code, as amended, and the regulations issued under authority thereof. Further, we give our consent to the processing of our information as contemplated under the \*Data Privacy Act of 2012 (R.A. No. 10173) for legitimate and lawful purposes.

	Date Signed (MM/DD/YYYY)								
	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								

Signature over Printed Name of Payor/Payor's Authorized Representative/Tax Agent  
(Indicate Title/Designation and TIN)

Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	<input type="text"/>	Date of Issue (MM/DD/YYYY)	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>									Date of Expiry (MM/DD/YYYY)	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								

CONFORME:

	Date Signed (MM/DD/YYYY)			
	<table border="1"><tr><td>05</td><td>05</td><td>2023</td></tr></table>	05	05	2023
05	05	2023		

Signature over Printed Name of Payee/Payee's Authorized Representative/Tax Agent  
(Indicate Title/Designation and TIN)

Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	<input type="text"/>	Date of Issue (MM/DD/YYYY)	<table border="1"><tr><td>05</td><td>05</td><td>2023</td></tr></table>	05	05	2023	Date of Expiry (MM/DD/YYYY)	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								
05	05	2023														

To be accomplished for Value-Added Tax/Percentage Tax Withholding (substituted filing)

I declare, under the penalties of perjury, that the information herein stated are reported under BIR Form No. 1600 which have been filed with the Bureau of Internal Revenue.

------------------------------------------	--

Signature over Printed Name of Payor/Payor's Authorized Representative/Tax Agent  
(Indicate Title/Designation and TIN)

Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	<input type="text"/>	Date of Issue (MM/DD/YYYY)	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>									Date of Expiry (MM/DD/YYYY)	<table border="1"><tr><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td><td> </td></tr></table>								

I declare under the penalties of perjury that I am qualified under substituted filing of Percentage Tax/Value-Added Tax Returns (BIR Form 2551Q/2550M/Q), since I have only one payor from whom I earn our income; that, in accordance with RR 14-2003, I have availed of the Optional Registration under the 3% Final Percentage Tax Withholding/12% Final VAT Withholding in lieu of the 3% Percentage Tax/12% VAT in order to be entitled to the privileges accorded by the Substituted Percentage Tax Return/Substituted VAT Return System prescribed in the aforesaid Regulations; that, this Declaration is sufficient authority of the withholding agent to withhold 3% Final Percentage Tax/12% Final VAT from myr sale of goods and/or services.

<b>CONFORME:</b>			
			Date Signed (MM/DD/YYYY) <b>05 05 2023</b>
Signature over Printed Name of Payee/Payee's Authorized Representative/Tax Agent (Indicate Title/Designation and TIN)			
Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	Date of Issue	Date of Expiry	
	<b>05 05 2023</b>		
<b>To be accomplished for Value-Added Tax/Percentage Tax Withholding (substituted filing)</b>			
I declare, under the penalties of perjury, that the information herein stated are reported under BIR Form No. 1600 which have been filed with the Bureau of Internal Revenue.			
Signature over Printed Name of Payor/Payor's Authorized Representative/Tax Agent (Indicate Title/Designation and TIN)			
Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	Date of Issue (MM/DD/YYYY)	Date of Expiry (MM/DD/YYYY)	
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Signature over Printed Name of Payee/Payee's Authorized Representative/Tax Agent (Indicate Title/Designation and TIN)			
Tax Agent Accreditation No./ Attorney's Roll No. (if applicable)	Date of Issue (MM/DD/YYYY)	Date of Expiry (MM/DD/YYYY)	

\*NOTE: The BIR Data Privacy is in the BIR website (www.bir.gov.ph)

**ANY OTHER **INCOME PAYMENTS** MADE ABROAD  
THE SUBJECT OF CONFIRMATION?**



Taxation and the Prevention of  
Fiscal Evasion with Respect to  
Taxes on Income

BIR Ruling No. ITAD 020-24

20 NOV 2024

Cloud Development Resources, Inc.  
19<sup>th</sup> Floor, Robinsons Cybersigma  
Lawton Avenue, 1634 Taguig City

Attention: [REDACTED]  
General Manager

Gentlemen: **PERSONAL SERVICES!**

This refers to your letter dated October 17, 2024 requesting for confirmation that the income payments made by Cloud Development Resources, Inc. (Cloud) to [REDACTED] [REDACTED] for services rendered partly within the Philippines in 2023, are exempt from income tax pursuant to Section 42(C)(3) in relation to Section 23(B) of the National Internal Revenue Code of 1997 (Tax Code), as amended, and Article 14 of the Convention between the Republic of the Philippines and the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (PH-Singapore Tax Treaty).

- ❑ Non-Resident Citizens are taxed only on income from sources PH sources
- ❑ The “Source” of income is determined by where the service is performed, not by the payor’s residence or payment location
- ❑ Remuneration paid & borne by PE shall be taxed under Article 14 of PH-SG Tax Treaty for services rendered in PH



Requesting confirmation that the income payment for **services rendered partly within PH in 2023** is **exempt** from income tax pursuant to PH-SG Tax Treaty



Filipino citizen established residence in SG on Dec 31, 2020 & was classified as a tax resident of SG for the years 2021 to 2023

❑ Notwithstanding her relocation, she retained her position as General Manager of CDR Inc., a domestic corporation

Rendering majority of her services:



SG in 2021



Partially from PH in  
2022 & 2023



SEC 23(B) & 42(C) NIRC

- ❑ Nonresident citizens are taxed only on income from PH sources, with services performed locally considered PH-sourced & those performed abroad deemed foreign-sourced



- ❑ "source" of income is **determined by the location where activity or service generating** income is performed, rather than by the payor's residence or place of payment

CIR VS BAIER-NICKEL & CIR VS BOAC

□ individual's remuneration, **paid & borne by Cloud**, shall be taxed for services rendered in PH

ART 14 PH-SG



REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL  
REVENUE,

*Petitioner,*

CTA EB No. 2814  
(CTA Case No. 10146)

Present:

**CAPITAL GAINS DEALINGS!**

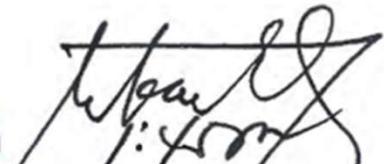
DELR ROSARIO, PJ  
JINCHILIBAL,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO,  
CUI-DAVID,  
FERRER-FLORES, *and*  
ANGELES, II.

- versus -

GRID SOLUTIONS (U.S.) LLC,  
*Respondent*

Promulgated:

JAN 09 2025



## RULING



- CGT payment, regardless of the remitting entity, was for TP's account as the statutory TP, granting it legal standing to file the refund suit, with no further proof of payment required



Section 28(B)(1) of the National  
Internal Revenue Code of 1997  
(NIRC), as amended

BIR Ruling No. ITAD 015-24

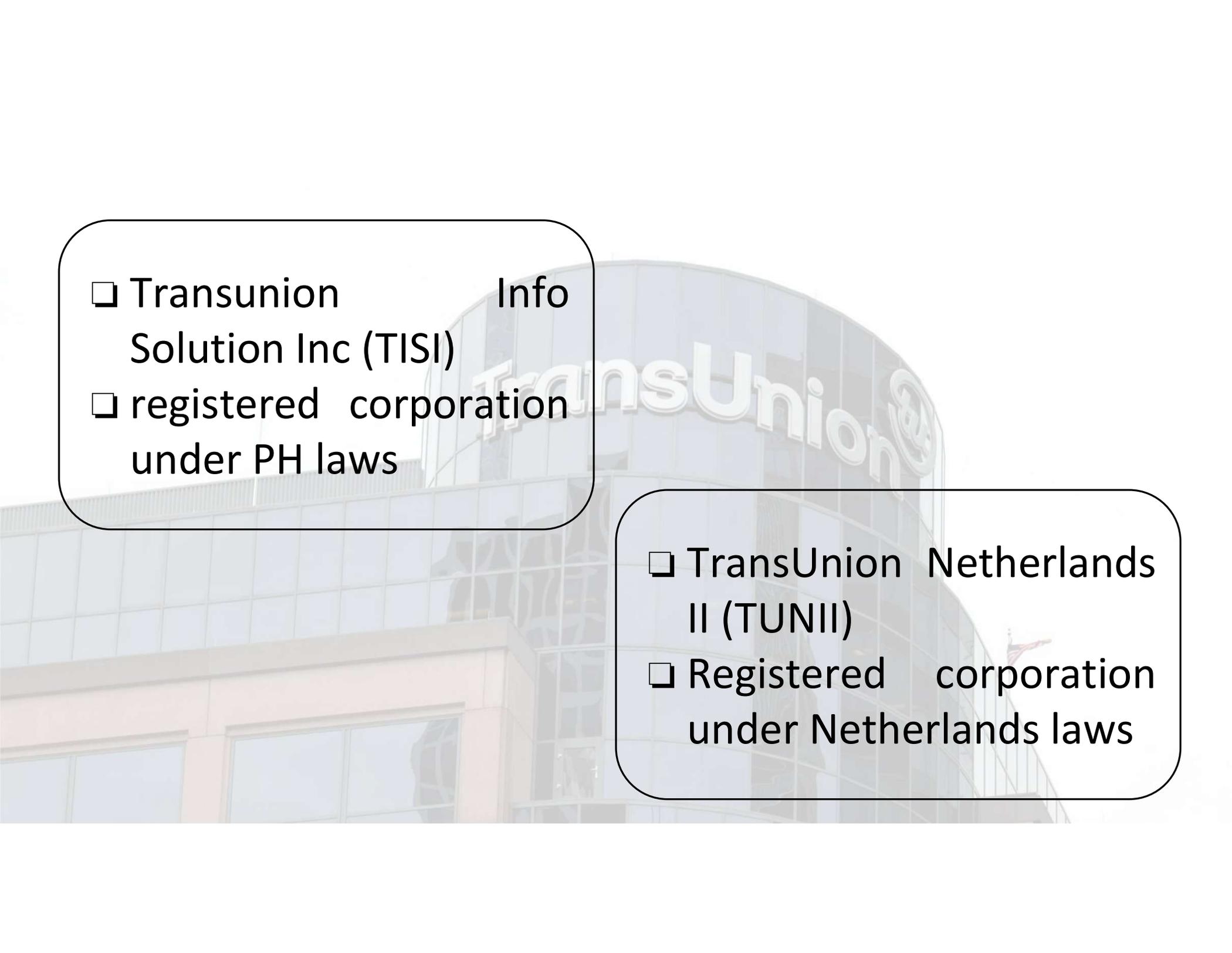
18 OCT 2024

**TRANSUNION INFORMATION SOLUTIONS INC.**

19<sup>th</sup> Floor, Ayala Triangle Gardens Tower 2  
Paseo de Roxas cor. Makati Avenue  
Makati City, 1226 Metro Manila

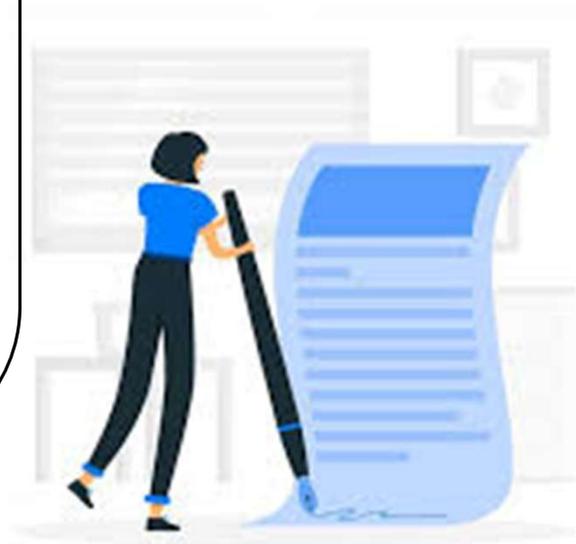
Gentlemen:

This refers to your request for confirmation that the dividends paid by **Transunion Information Solutions Inc. (TISI)** to **TransUnion Netherlands II B.V. (TUNII)**, a resident of the Netherlands, are subject to the preferential tax rate of 10% pursuant to Article 10(2)(a) of the Convention between the Kingdom of the Netherlands and the Republic of the Philippines for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (PH-Netherlands Tax Treaty).

- 
- ❑ Transunion Info  
Solution Inc (TISI)
  - ❑ registered corporation  
under PH laws

- ❑ TransUnion Netherlands  
II (TUNII)
- ❑ Registered corporation  
under Netherlands laws

- ❑ TUNII executed a Deed of Assignment with TransUnion (Maritus) Limited (TML), a corporation registered in Mauritius
- ❑ Transferring all its rights to common shares in TISI to TML in exchange for new ordinary shares



- ❑ Transferring the 576,000 common shares in TISI to TML in exchange of newly issued 51,981,294 ordinary shares
- ❑ Subject shares constitute 80% of the outstanding shares of TISI



- ❑ On April 7, 2021, the Board approved & resolved the declaration of cash dividends
- ❑ It must be paid & distributed before Dec 31, 2021
- ❑ Dividends allocated to TUNII were actually paid on Aug 20, 2021



- ❑ Dividends received by NFRC from a domestic corporation are subject to a 25% tax rate

SEC 28(B)(1) NIRC

- ❑ Reduced rate of 15% shall apply if the country of domicile of NFRC allows a credit against the tax due from the NFRC

SEC 28(B)(5)(b) NIRC

- ❑ Tax to be paid in PH shall be equivalent to 10%



- ❑ Such dividends may be entirely or partially exempt in accordance with any treaty obligations on PH
- ❑ TISI invoked PH-Netherlands Tax Treaty
- ❑ TUNI is entitled to claim the benefits of tax treaty provisions

ART 10 (DIVIDENDS) PH-NETHERLANDS



❑ May only impose 10% preferential income tax rate on dividends paid to a resident of other state if the recipient is:

- ❑ beneficial owner of dividends
- ❑ A company the capital of which wholly or partially divided into shares &
- ❑ Holding directly at least 10% of capital of the company paying the dividends



- ❑ OECD states that granting tax exemption or relief to a resident acting merely as conduit is inconsistent with treaty's purposes
  
- ❑ A conduit cannot be considered the beneficial owner if:
  - ❑ Acts only as fiduciary or administrator
  - ❑ Limited power & merely channels income to another person

PAR 2, ART 10 2017 OECD



- ❑ TUNII, cannot be regarded as beneficial owner of dividend since it is holding the same in trust & for benefit of TML
- ❑ As a result of the alienation of the subject share, all rights, interests & title associated with it are transferred



- ❑ Art 10 of PH-Netherlands Tax Treaty is inapplicable
- ❑ Dividends cannot be taxed on the basis of SEC 28(B)(5)(b) NIRC since TSI failed to prove that Mauritius, allow a deemed-paid tax credit as least equal in amount of 10% waived by PH



★ MAURITIUS ★

- ❑ PH has no existing double tax convention with Mauritius
- ❑ BIR: dividends paid by TISI to TML through TUNII, are subject to PH income tax at the rate of 25%

SEC 28(B)(1) NIRC



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**[willie.santiago@dmdcpa.com.ph](mailto:willie.santiago@dmdcpa.com.ph)**

