REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Sections 28 (B) (1), Section 42 (C) (3) of the Tax Code; Section 2.57.1(I) of the RR No. 2-98, as amended
BIR Ruling No. 672-2019
OT- 011-2025
JAN 06 2025

ONLINE LOANS PILIPINAS FINANCING, INC.
1402-1406 Tycoon Center,
Pearl Drive San Antonio,
Pasig City, Philippines

Attention: **ADRIAN PAULO B. ROCO**
President

Gentlemen:

This refers to your request for confirmation that the income payments of Online Loans Pilipinas Financing, Inc. ("**OLP**") to Seon Technologies Kft. ("**STK**"), is not subject to withholding tax.

Background

1. OLP is a financing company duly organized and existing under the laws of the Philippines engaged in the business of extending credit facilities by way of loan subsidies. The financial services by OLP are offered online via web and mobile applications.

2. STK is a nonresident foreign corporation organized and existing under the laws of Hungary. It is engaged in the business of providing technical support services. STK has no presence in the Philippines as evidenced by the Certificate of Non-registration issued by the Securities and Exchange Commission ("**SEC**").

3. OLP and STK entered into a SaaS Services Agreement ("**Agreement**") where STK will provide a cloud-based machine learning platform ("the "**Platform**") that allows inputs for user profiling decisions on transaction level in real-time. The Platform will provide a comprehensive information about an online platform user using specific algorithms and information provided by OLP and STK. OLP will be given access to this service by connecting to a set of application programming interfaces ("**API**") or through graphical user interface provided by STK. The fees for the services of STK include charges for all email API, phone API, IP API, or Device Fingerprint request or call usage. Cost of services comprises all expenses of STK for the fulfillment of the obligations assumed under the Agreement. The fees shall be paid by OLP to STK by transferring funds to STK operating account within thirty (30) days payment term from the issued invoice.

4. STK will perform all the services in its office in Budapest, Hungary.

In reply, please be informed that Section 23(F) of the National Internal Revenue Code of 1997, as amended ("**Tax Code**") provides that a "foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on income derived from sources within the Philippines." In addition, Section 28 (B) (1) of the Tax Code provides that only income received by a foreign corporation not engaged in trade or business in the Philippines from all sources within the Philippines shall be subject to income tax of twenty five percent (25%).[1]

The rule regarding tax situs is that the source of income is the property, activity or service that produced the income; the test of taxability is the "source" and the source of income is that activity which produced the income.[2]

Section 42(A)(4) of the Tax Code provides that royalties received by non-resident foreign corporation are considered sources within the Philippines, to *wit*:

> *"SEC. 42. Income from Sources Within the Philippines. –*
>
> *(A) Gross Income From Sources Within the Philippines. – The following items of gross income shall be treated as gross income from sources within the Philippines:*
>
> xxx xxx xxx
>
> *(4) Rentals and Royalties. – Rentals and royalties from property located in the Philippines or from any interest in such property, including rentals or royalties for –*
>
> *(a) The use of or the right or privilege to use in the Philippines any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade band or other like property or right;*
> *(b) The use of, or the right to use in the Philippines any industrial, commercial or scientific equipment;*
> *(c) The supply of scientific, technical, industrial or commercial knowledge or information; xxx"* (Underscoring supplied)

In this case, STK will provide OLP an access to its Platform which will allow OLP to input its customers' and/or potential customers' details for user profiling and/or fraud detection. The Platform will provide a comprehensive information about an online platform user using the information provided by OLP. The information can be acquired by OLP through the provision of its customers' or potential customers' email address, phone number, IP address and digital finger prints.

Based on the foregoing, while it is true that STK is classified for purposes of Philippine taxation as a non-resident foreign corporation, and considering further that all its equipment and system are all located outside the Philippines, a perusal of the agreement between STK and OLP shows that STK is providing OLP a right or privilege to use its Platform for OLP's profiling decisions for the purpose of, among others, verifying whether its customers or potential customers are fraudulent or not. Stated differently, STK is supplying commercial

[1] BIR Ruling No. 345-2011; BIR Ruling No. 009-2005.
[2] BIR Ruling No. 672-19, October 30, 2019.

information to OLP through the Platform. It appears that the Platform is a database of online platform users which has the capacity of collating all their information.

Such being the case, this Office hereby rules that the income received by STK from the fees OLP is paying for the right to access the Platform is within the purview of "royalty" that is subject to Philippine income tax.

Consequently, said income is subject to final withholding tax pursuant to Section 2.57.1(F) of Revenue Regulations No. 2-98,[3] as amended, which provides that income derived by a non-resident foreign corporation from all sources within the Philippines are subject to final withholding tax.[4] Hence, OLP is required to withhold a final income tax on the income payments under the aforementioned Agreement.

This ruling is issued on the basis of the foregoing facts as represented. However, if upon investigation it shall be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,



ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

Copy furnish:

Revenue District Office No. 43
Pasig City

K-1

[3] *Implementing Republic Act No. 8424, "An Act Amending The National Internal Revenue Code, as amended" relative to the Withholding on Income subject to the Expanded Withholding Tax and Final Withholding Tax. Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes*, 17 April 1998.
[4] BIR Ruling [DA-272-06] dated 21 April 2006.