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

Sections 23(F), 42(C)(3) and 108(A) of the Tax Code, as amended
BIR Ruling No. OT-006-20
OT-r 012-2025
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

Marian I. Abarquez
Chief Financial Officer

Gentlemen:

This refers to your request for confirmation of your opinion that **Online Loans Pilipinas Financing, Inc.**[1] ("OLP") is exempt from the payment of withholding tax on payments for services rendered abroad by Da Vinci Consult LLC, a non-resident foreign corporation ("NRFC").

It is represented that OLP is a corporation organized and existing under the laws of the Republic of Philippines offering financial services such as loans which services are provided through web and mobile applications.

On the other hand, Da Vinci Consult LLC is a NRFC registered under the laws of the Russian Federation engaged in the business of risk engine development. It is not registered as a corporation, partnership or one-person corporation in the Philippines per Certificate of Non-Registration of Company issued by the Securities and Exchange Commission on March 24, 2022.

The above-mentioned Corporations entered into two (2) Service Agreements wherein Da Vinci Consult LLC undertakes the performance of the following services for a renumeration which were performed in Da Vinci Consult LLC's head office in Moscow, Russia:

1. Under Service Agreement No. 20210301 dated March 1, 2021, valid until December 1, 2021, Da Vinci Consult LLC shall perform "works on develop risk engine"; and

2. Under Service Agreement No. 082021-1 dated August 31, 2021, valid until December 1, 2021, Da Vinci Consult LLC shall perform "development and IT Technical support work".

[1] Formerly: Magic World Technologies, Inc.

In this regard, you would like to have confirmation of your opinion that the payment of service fees by OLP to Da Vinci Consult LLC is not subject to withholding tax.

In reply, please be informed that ***Section 23 (F) of the National Internal Revenue Code of 1997 (Tax Code), as amended***, states 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. Concerning income from the provision of service, under ***Section 42(A) (3) of the Tax Code, as amended***, this is considered derived in the Philippines only if the services are actually performed in the Philippines.

The rule in this jurisdiction 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]. With regard to compensation for labor or personal services, services performed within the Philippines, regardless of the residence of the payor, or of the place in which the contract for services was made, or of the place of payment, shall be considered as part of the gross income from sources within the Philippines. Stated differently, the situs of the income derived from labor or personal services is determined solely by the place where service is rendered[3].

Accordingly, since Da Vinci Consult LLC, a NRFC, performed the services required of it under the agreement outside the Philippines, service fees paid by OLP shall be exempt from income tax pursuant to the above-mentioned provisions.

With respect to value-added tax (VAT), ***Section 108 (A) of the Tax Code, as amended,*** provides that payments for the sale or exchange of services, including the use or lease of properties are subject to the twelve percent (12%) VAT only if the services are performed in the Philippines. 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.

Considering that the services by Da Vinci Consult LLC were performed outside the Philippines, the service fees paid therefor by OLP are likewise exempt from VAT.

In view of the foregoing exemptions from income tax and VAT, the payment of service fees by OLP to Da Vinci Consult LLC are not subject to withholding tax.

This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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[2] *CIR v. British Overseas Airways Corporation* (G.R. Nos. 65773-74, April 30, 1987)
[3] *CIR v. Japan Airlines, Inc.* (G.R. No. 60714, October 04, 1991)