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

RA No. 10962
BIR Ruling No. 242-18
OT- 018-2024

MAR 08 2024

HONG BAE LEE
President & CEO

Sir:

This refers to your request, on behalf of SHARE TREATS INNOVATION CORPORATION ("STIC"), for a ruling regarding its status as a taxpayer and the effects of its transactions for taxation purposes.

As represented, STIC is a domestic corporation registered with the Securities and Exchange Commission (SEC) with Registration No. dated June 8, 2017, with primary purpose "to engage in Information Technology enable services such as but not limited to computer programming and software development", and with secondary purpose, among others, to engage in, conduct, and carry, on the business of acquiring, buying, importing, selling, holding, or otherwise disposing of and dealing with, insofar as may be permitted by law, aggregate brand vouchers, other goods, wares, merchandise and commodities of all kinds, and products, natural or artificial, of the Philippines or other countries, which are or may become articles of commerce, primarily through electronic commercial means without engaging in retail trade. It is likewise registered with the Bureau of Internal Revenue under Certificate Registration No. OCN: originally dated June 28, 2017.

STIC offers a suite of platforms designated to digitize traditional gifting and rewarding and which involves the following features:

a. STIC enters into Marketing or Promotional Agreements with various "**Merchants**" wherein STIC will purchase electronic gift certificates (eGCs) for distribution;

b. eGCs include a monetary value that could be spent for any product or service at specific Merchants;

c. Once STIC purchases the eGCs, either the STIC or the Merchant will generate unique eGC codes to be made available to its Clients;

   i. STIC advances the payment for the GCs to the Merchants and STIC records this as a prepaid expense. Here is a pro-forma entry for the prepayment:

Prepaid expense	xxx	
Cash in bank		xxx

d. **Clients** purchase eGCs from STIC's online platform. A pro-forma entry in STIC's books for the sale of eGCs is as follows:

Accounts receivable	xxx	
Prepaid taxes (withholding tax)	xxx	
Prepaid expenses		xxx
Revenue		xxx
Output tax		xxx

STIC credits the value of the eGCs from the prepaid expense account previously established. Revenue is recognized for STIC's service fees for facilitation or administration and/or marketing efforts or commission.

e. STIC issues the following documents to the **Clients**:

   i. Acknowledgment receipt – for the receipt of the value of the eGC representing the amount credited to STIC's prepaid expense account.

   ii. Official receipt – representing the service fee billed to STIC's Clients.

f. Clients may be designated as individual customers or corporate customers;

   i. Upon purchase of an eGC by an individual, the Client or designated recipient of the eGC shall be notified with an eGC code via electronic mail or short messaging service (SMS);

   ii. For corporate Client, STIC provides the platform where the corporate Clients can send the eGC codes to their recipients.

g. The Clients or their designated recipient use the eGC codes to acquire goods or services from the Merchant by presenting the code to the cashier in participating stores or to the online website store or platform of the Merchant;

h. For sale of goods and services through the redemption of eGCs, the Merchant issues a corresponding value-added tax (VAT)-official receipt or sales invoice to the eGC Client or authorized representative and accounts for corresponding taxes thereto.

In view of the foregoing representations, STIC requests for confirmation of the following:

1. The proceeds from the issuance of eGCs from Clients to STIC is not a taxable income on the part of STIC as STIC merely offsets them to prepayments made to the Merchant to whom the Client will redeem the eGCs. Accordingly, the same is not subject to expanded withholding taxes (EWT);

2. STIC's issuance of eGCs to Clients is exempt from VAT and as such, the issuance of an acknowledgement receipt is proper, not being a sale of goods or service contemplated under the existing laws, rules and regulations on VAT; and

3. STIC shall be subject to 12% VAT and be required to issue VAT official receipts on the amount it receives from its Clients for the service fees where eGCs were utilized for facilitation or administration and/or marketing efforts or commission.

In reply, we take note of the following, based on your representations:

1. Based on item (a.) of the representations above, STIC claims that it enters into Marketing or Promotional Agreements with various "Merchants", and yet STIC will

purchase eGCs for distribution. If the service that STIC renders to its Merchants is for marketing or promotion, then the ownership of the eGCs still belongs to the Merchants; thus, there is no reason for STIC to purchase the eGCs and to advance payment to the Merchants. The pro-forma entry clearly shows that it is one of purchase, as the debit entry is a "pre-paid expense".

Apparently, STIC takes ownership of the eGCs once it advances payment of the eGCs to the Merchants. In fact, per item (c.) of the representations, the unique eGC codes can only be generated after STIC purchases the eGCs.

2. Based on item (e.) of the representations, STIC issues official receipts for the amount representing the service fee it bills to its Clients, which is not consistent with the "Marketing or Promotional" feature/activity it allegedly performs for the Merchants.

   Apparently, it is STIC's Clients, and not the Merchants, which pay for STIC's services in the form of service fees.

Based on STIC's representations therefore, it is apparent that STIC purchases the eGCs from the Merchants, takes ownership of the eGCs; sells the eGCs to its Clients; and charges its Clients a service fee.

Hence, the Bureau shall base its ruling on such representations. However, we also take notice of Republic Act (RA) No. 10962[1] of the "Gift Check Act of 2017", Section 2 of which states the nature of gift certificates or gift checks as follows:

> "Towards this end, the State, through the Department of Trade and Industry (DTI), recognizes that a gift check represents value held in trust by the issuer thereof on behalf of its beneficiary or bearer and that consumers must not be unduly deprived of the value of their money."

Applying the foregoing in the instant case, we have the following ruling:

The proceeds from STIC's Clients, for the face value of the eGCs issued, represent value held in trust by the issuer thereof (i.e., the Merchant) on behalf of its beneficiary or bearer (i.e., the Clients) until such time when the beneficiary or bearer will redeem the eGCs. Therefore, such proceeds do not constitute taxable income of STIC, as contemplated in Section 27(A) of the National Internal Revenue Code of 1997, as amended ("Tax Code").

We reiterate BIR Ruling No. 242-18 dated February 21, 2018, quoting the case of *Commissioner of Internal Revenue vs. Tour Specialists, Inc.*[2], citing the case of *Commissioner of Internal Revenue vs. Manila Jockey Club, Inc.*,[3] where the Supreme Court declared that:

> "Gross receipts subject to tax under the Tax Code do not include monies or receipts entrusted to the taxpayer which do not belong to them and do not redound to the taxpayer's benefit and it is not necessary that there must be a law or regulation which would exempt such monies and receipts within the meaning of gross receipts under the Tax Code."

In the foregoing case, the Supreme Court affirmed the decision of the Court of Tax Appeals which excluded from the gross receipts of a local travel agency amounts received by the latter from

[1] An Act Regulating the Issuance, Use and Redemption of Gift Checks; Approved: December 19, 2017.
[2] G.R. No. 66416 dated March 21, 1990.
[3] 108 Phil. 882.

foreign tourist agencies which form part of the package fee paid by the tourists but were intended or earmarked for hotel room accommodations and accordingly paid by the local travel agency to the hotels. In said case, the Court found that the hotel charges paid by the local travel agency were paid out of funds entrusted to it by the foreign tour correspondent agency. As such, the said receipts never belonged to the local travel agency, but only formed sums for payment to the hotels, without any portion thereof being diverted to its own fund.

Since the proceeds from the Clients for the face value of the eGCs do not constitute taxable income on the part of STIC, accordingly, such proceeds are not subject to EWT.[4]

Even if, technically, STIC has already purchased the eGCs from the Merchants, as explained previously, STIC may still be considered a "beneficiary or bearer" of the eGCs that have not been sold to any Clients yet, which means that the face value of such eGCs do not represent a sale but a value held in trust by the Merchants in favor of STIC.

For the proceeds received by STIC from its Clients for the face value of the eGCs, since they do not fall within the purview of the term taxable income, nor are they considered payment for goods sold by STIC, nor considered compensation for services rendered by STIC, such proceeds are not considered as sale of goods or service as contemplated under Section 105 of the Tax Code, and other rules and regulations related to VAT. As such, the proceeds for the face value of the eGCs are not subject to VAT; thus, the issuance of an acknowledgement receipt for such proceeds is proper.

As for the proceeds received by STIC from its Clients pertaining to the service fees for the facilitation or administration and/or marketing efforts or commission, being considered income on the part of STIC, STIC shall be subject to 12% VAT and shall be required to issue VAT official receipts on such amount. The service fees are also subject to EWT on the part of the Clients, as applicable.

However, for unused or unspent eGC, STIC shall recognize revenue therefor, which shall be subject to ordinary corporate income tax, and, commission, if any, paid by STIC to merchants for every eGC spent in their stores shall be subject to income tax and to creditable income tax and VAT.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will 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

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[4] Revenue Regulations No. 11-2018.