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

Sec. 32(B)(7)(a), Tax Code of 1997, as amended
BIR Ruling No. 242-19 BIR Ruling No. 294-12
OT- 020-2025
JAN 07 2025

ISLA LIPANA & CO.
29th Floor, Philamlife Tower
8767 Paseo de Roxas
1226 Makati City

Attention: **Atty. Maria Lourdes P. Lim**
Managing Partner
Tax

Gentlemen:

This refers to your request on behalf of your client the **PUBLIC INVESTMENT FUND** ("**PIF**") for confirmation that the income derived by its subsidiaries, The Saudi Second Investment Company ("SSIC") and The Saudi Fourth Investment Company ("SFIC") (hereafter collectively referred as the "Companies"), from its investments in the Philippines in stocks, bonds or other domestic securities are exempt from income tax.

Background

1. The SSIC and SFIC are single person limited liability companies incorporated in the Kingdom of Saudi Arabia ("the Kingdom" or "KSA") wholly owned by the PIF. The PIF is the sovereign wealth fund of the government established in the KSA. PIF was formed by Royal Decree in 1971 (hereafter the "Decree") and is now regulated by the 2019 Law of PIF (hereafter the "Law").

2. In accordance with the Decree and Law, PIF is not a separate corporate entity and does not issue shares or any transferable interest.

3. Effectively, the Decree states that PIF has a "public legal personality," referring to an entity/authority in KSA that is an integral part of the KSA. PIF has a Governor with a rank of Minister that is responsible for looking after the day-to-day aspects of PIF's operations (the Governor reports to the Board of PIF). In that respect, PIF is similar to ministries where ministers look after day-to-day operational aspects and report to the KSA.

4. PIF does not pay income tax [that is imposed primarily on non-Gulf Co-operation Council (GCC) interest in KSA entities] and Zakat (which is a religious levy imposed primarily on GCC interest in KSA entities). PIF is considered as tax resident in the KSA.

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5. Given that PIF is an integral part of the KSA, its earnings are distributed to the Treasury of the sovereign/Ministry of Finance of the KSA. Hence, no portion of the earnings of PIF inures any benefit to any "private person."

6. The SSIC and SFIC were formed pursuant to the Company Law of the Kingdom promulgated by Royal Decree No. M/3 dated 28/01/1437H. The Companies are wholly owned by PIF.

7. The Companies' purpose is to invest its funds (provided by the PIF) in shares, bonds and other securities and to invest in portfolios, funds and regional and global stock exchanges and financial markets, with the PIF as the ultimate beneficial owner. The Companies are likewise managed by the PIF. Particularly, they are under the oversight of the PIF governor, Yasir Al-Rumayyan.

8. Such Companies are separate legal entities and taxpayers but rely on third party service providers and PIF's staff to execute certain tasks on behalf of such Companies. Like PIF, such Companies never engage in day-to-day operations of the investee companies, but merely exercise shareholder level functions based on the governance of such investee companies. Thus, their activities are clearly limited to investment and not commercial/trading activities.

9. These Companies are incorporated for various policy, legal, regulatory, commercial or contracting reasons where PIF's direct engagement was either not feasible or could put PIF into a less favorable position. The Companies are 100% owned by PIF. In this respect, such Companies are functional extension of PIF itself and should be clearly distinguished from other commercial or trading subsidiaries that PIF owns for the purposes of this analysis (for the avoidance of doubt, such commercial subsidiaries are also autonomous in their own right e.g. have separate commercial mandate/activities, separate governance, independent boards and day-to-day management teams, etc.)

10. The Companies currently intend to invest in listed shares of Philippine domestic corporations.

Discussion/Ruling

Section 32 (B)(7)(a) of the National Internal Revenue Code of 1997 (Tax Code), as amended, which you invoke as basis of exemption from payment of Philippine income tax and withholding tax on income that the Companies will receive should they invest in the Philippines, provides:

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

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(7) Miscellaneous Items. –

(a) Income Derived by Foreign Government. – Income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) financing institutions owned, controlled, or enjoying refinancing from foreign governments, and (iii) international or regional financial institutions established by foreign governments."

In relation thereto, "financing companies" is defined as follows:

"2.7. Financing Companies. — shall refer to corporations except banks, investment houses, savings and loan associations, insurance companies, cooperatives, and other financial institutions organized or operating under other special laws, which are primarily organized for the purpose of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, by direct lending or by discounting or factoring commercial papers or accounts receivables, or by buying and selling contracts, leases, chattel mortgages, or other evidences of indebtedness, or by financial leasing of movable as well as immovable properties (R.A. No. 5980, as amended by R.A. No. 8556)."[1]

Based on the representations made, it would appear that the Companies do not fall under any of the above enumeration. Even though their investor is comprised of a foreign government, it is not an institution contemplated under Section 32 (B)(7)(a) of the Tax Code, as amended. The exemption covers income derived by financing institutions either owned, controlled, or enjoying refinancing from foreign governments, or those which are established by foreign governments. Records do not even show that the Companies are financial institutions in contemplation of law rather they are investment companies. Under Section 4 of Republic Act (RA) No. 2629, or the Investment Company Act, an investment company is incorporated for the primary purpose of investing, reinvesting, or trading in securities. The Articles of Association of the Companies state that they have been formed to purchase and own shares, stocks and assets in companies inside and outside the KSA, to invest their funds in shares, *sukuk*, bonds and other securities and to invest in portfolios, funds and regional and global stock exchanges and financial markets. Considering that the Companies are performing investment activities, they are classified as investment companies pursuant to the RA No. 2629.

In this case, the Companies are just ordinary private companies which happen to be managed and administered by a financing institution controlled by a foreign government. They are not financing institutions owned, controlled, or enjoying refinancing from a foreign government. The Companies are mere investee companies with respect to the financing institution, PIF, and consequently, to the foreign government.

[1] Section 2.7 of Revenue Regulations No. 9-2004 dated June 21, 2004, implementing Republic Act (RA) No. 9238, which took effect on January 1, 2004; Section 1 (a), Rules and Regulations to Implement the Provisions of RA No. 8556 (The Financing Company Act of 1998)

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IN VIEW OF THE FOREGOING, this Office hereby rules that the Companies are not considered as financing institutions within the purview of Section 32 (B)(7)(a)(ii) of the Tax Code, as amended, hence, income that will be earned should the Companies invest in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines shall be subject to Philippine income tax and withholding taxes.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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