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

Section 57 of the Tax Code, as amended
BIR Ruling No. 1346-18
OT-024-2024
APR 25 2024

REYES TACANDONG & CO.
Citibank Tower 8741 Paseo de Roxas
Makati City

Attention: **William Benson S. Gan**
Tax Services

Gentlemen:

This refers to your letter request on behalf of your client, Easytrip Services Corporation (Company), for a confirmation that the amounts received by the Company from banks and credit card companies, authorized partner merchants, and corporate clients relating to loads and reloads, which are merely held in trust and for remittance to the toll operators, are exempt from expanded withholding tax (EWT).

It is represented that the Company is primarily engaged in the business of providing services related to Electronic Toll Collection (ETC) systems which include, among others, the implementation of inter-operability of the different toll collection systems of tollways in the Philippines, account management and funding management of all electronic pass issued. The Company earns revenue by charging service fees to toll operators based on the Company's ETC performance with respect to electronic toll collection transaction count. On the other hand, the toll passage fees for the use/access of expressways will form part of the income of the respective toll operators, as these pertain to the use of the toll roads.

Particular to its management of electronic passes, the Company observes the process of issuing transponder gadgets/stickers and the maintenance/monitoring of its loads and reloads. The gadget allows users to access tollways and tender payments for use of such facility.

The payments for loads and reloads are available to the tollway users through cash, auto-debit arrangement (ADA) through credit cards, debit card or any other payment means. For ADA and debit cards, the Company will utilize banks and credit card companies.

Other options for tollway users to reload their electronic passes are available through the company-controlled stations and authorized partner merchants. There are also corporate clients where the Company will send them a statement of their actual tollway usage either on a weekly or semi-monthly basis.

It is further represented that the cash received by the Company from public users are considered as liabilities of the Company. This is because the said amount will: 1.) be remitted by the Company to the toll operators upon receipt of the report of actual usage by the user; or

2.) be refunded to the user, should the user expressly intend to not use the gadget and request to be refunded thereof.

The loads and reloads made by users through the banks via ADA through credit cards are subject to the usual bank charges and 0.5% EWT pursuant to Section 2.57.2(H) of Revenue Regulations (RR) No. 02-98, as amended.

Hence, this request.

In reply, please be informed that Section 57 (B) of the National Internal Revenue Code of 1997 (Tax Code), as amended, provides:

> *Sec. 57. Withholding of Tax at Source. —*
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> *xxx xxx xxx*
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> *B) Withholding of Creditable Tax at Source. — The Secretary of Finance may, upon the recommendation of the Commissioner, require the withholding of a tax on the items of income payable to natural or juridical persons, residing in the Philippines, by payor-corporation/persons as provided for by law, at the rate of not less than one percent (1%) but not more than thirty-two percent (32%) thereof, which shall be credited against the income tax liability of the taxpayer for the taxable year.*

In connection thereto, Section 2.57 (B) of RR No. 2-98, as amended, provides, as follows:

> *SECTION 2.57. Withholding of Tax at Source. —*
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> *(B) Creditable Withholding Tax. — Under the creditable withholding tax system, taxes withheld on certain income payments are intended to equal or at least approximate the tax due of the payee on said income. The income recipient is still required to file an income tax return, as prescribed in Sec. 51 and Sec. 52 of the NIRC, as amended, to report the income and/or pay the difference between the tax withheld and the tax due on the income. Taxes withheld on income payments covered by the expanded withholding tax (referred to in Sec. 2.57.2 of these regulations) and compensation income (referred to in Sec. 2.78 also of these regulations) are creditable in nature.*

Under the withholding tax system, taxes withheld on certain income payments are intended to equal or at least approximate the tax due of the payee on said income. Thus, taxes withheld are in the nature of advance payment by a taxpayer in order to extinguish his possible tax obligation. Taxes withheld are installments on the annual tax which may be due at the end of the taxable year.

The obligation to withhold taxes is premised on the condition that amounts remitted involve income payment from the payor such that the payee received taxable income.

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Income, in a broad sense, means all wealth that flows into the taxpayer other than as return of capital. Income, for tax purposes, is the amount of money coming to a person or corporation within a specified time, whether as payment for services, interest, or profits from investment.

The receipt of cash advance will not result in a flow of wealth because the Company shall likewise recognize a liability. Since the advances are not considered as income, it is therefore not subject to income tax or creditable withholding tax, there being no income payment to the extent of the liability recognized. Otherwise stated, when the Company receives the money from toll users through 1) banks; 2) company-controlled stations; and 3) authorized partner merchants, the same shall not automatically constitute as an income because of the recognition of a liability. Consequently, there being no flow of wealth to the Company, the withholding therefore by 1) banks; 2) company-controlled stations; and 3) authorized partner merchants is not warranted.

Nonetheless, the service fees charged embodied on the questioned transactions as well as the other fees and income which redound to the benefit of the Company by holding on to said cash advance, other than mere return of capital, shall be subject to income tax and consequently to creditable withholding tax as the same form part of the Company's income, as represented. The service fees are likewise subject to value-added tax (VAT). Also, payment or amount of loads or reloads that were not used and refunded by the users shall be considered as income of the Company and shall be subject to income tax, withholding tax and VAT.

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