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

Sec. 32(B)(6)(b), Tax Code
BIR Ruling No. OT-172-2021 BIR Ruling No. 363-12
OT - 054 2023
MAY 19 2023

NATIONAL FOOD AUTHORITY
Laguna Branch Office
Brgy. San Ignacio, San Pablo City

Attention: **Mr. Fernando I. Sanque**
Acting Branch Manager

Gentlemen:

This refers to your letter, indorsed to this Office by the Chief, Legal Division, Revenue Region No. 9B – LaQueMar, requesting, in effect, for a ruling that the proceeds paid by the National Food Authority ("NFA") to its affected NFA Laguna Branch Office – Region No. IV employees, affected by the restructuring of the NFA pursuant to Republic Act (RA) No. 11203 or the "Rice Tariffication Act" and its Implementing Rules and Regulations (IRR), who were involuntarily separated from government service under NFA's Separation Incentive Package (SIP) are tax exempt.

Background

On February 14, 2019, RA No. 11203 was approved by President Rodrigo Roa Duterte. Accordingly, Joint Memorandum Circular No. 01-019 or the IRR of RA No. 11203 was issued. Under the said Rules, the NFA shall propose to the Governance Commission for GOCCs (GCG) a new corporate structure of the NFA, including all positions in its plantilla, staffing patterns for its officers and employees in a way that is responsive to the requirements of the NFA to execute its key function of managing the buffer stocks and ensuring its financial stability.[1] Also, the compensation package under this Rule for affected officials and personnel of NFA is subject to the approval of the President. Affected officials and personnel of the NFA, whether regular or casual/contractual personnel, may avail of the **separation benefits in addition to retirement benefits allowed under existing laws.**[2]

The NFA Council approved the proposed NFA Restructuring/Reorganizational Plan through Council Resolution No. 935-2019-E dated May 21, 2019, and for submission thereof to GCG as required under RA No. 11203 and its IRR, subject to reservations of the NFA Council Members.

[1] Rule 3.4.1.1
[2] Rule 3.4.1.2

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On January 7, 2020, the GCG approved with modifications, the Restructuring Plan of the NFA, through GCG Memorandum Order No. 2019-13. Under the said Memorandum, the NFA Council, through the Administrator, shall be accountable for the payment of separation benefits to the affected officials and personnel, whether regular or casual/contractual, pursuant to existing laws and the implementation of the approved organizational structure and staffing pattern shall commence within two (2) months from the approval of NFA's SIP by the Office of the President.

The SIP was approved by the Office of the President in a Memorandum dated September 4, 2020 from the Executive Secretary Salvador C. Medialdea, which provides that the SIP shall be paid on top of other retirement and/or separation benefits under existing law and regulations.

Based on the foregoing, NFA paid the separation benefits of the affected employees.

In reply, please be informed that Section 32 (B)(6)(b) of the National Internal Revenue Code of 1997 (Tax Code), as amended, provides that any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee is exempt from taxes regardless of age or length of service. The phrase "for any cause beyond the control of the said official or employee" in effect connotes involuntariness on the part of the official or employee. The separation from the service of the official or employee must not be of his own making.[3]

Thus, the separation of the NFA Laguna Branch Office – Region No. IV officials and employees identified and recommended by NFA to have met the criteria for SIP is involuntary and is a consequence of the restructuring of the NFA. Therefore, any and all amounts to be received by them as a consequence of their involuntary separation from the service of NFA is not subject to income tax imposed under Section 24 (A) of the Tax Code, as amended, and consequently to the withholding tax on wages pursuant to Section 79 of the same Code.

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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[3] Section 4(f), Revenue Regulations (RR) No. 1-68 and Sec. 2 (b) (2), RR No. 6-82, as amended.