REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

RR No. 11-2018, as amended	000-00	

Person to Contact: Chief, Law & Legislative Division
Tel Nos. 926-55-36/927-09-63

CT- 062-2021
Date: MAR 03 2021

ASPAC INTERNATIONAL, INC.
Kaingin Road, Multinational Village
Parañaque City

Attention: **Ms. Anicia P. Paeldon**
President
Ms. Evangeling Bugayong
VP-Finance

Gentlemen:

This refers to your letter dated December 18, 2018 requesting on behalf of **ASPAC INTERNATIONAL, INC.** ("ASPAC") for clarificatory ruling on the matter of correct withholding tax rate that should be applied and deducted on the "Service Fees" that ASPAC billed to its clients/customers: UPS DELBROS INTERNATIONAL EXRESS LTD., INC. ("UPS") and UPS SCS (Philippines), Inc. ("UPS SCS").

Background

1. ASPAC is a corporation organized and existing under Philippine laws with office address at Kaingin Road, Multinational Village, Parañaque City, with Taxpayer Identification No. (TIN) ASPAC's primary purpose is to engage in the general business of international and domestic forwarding cargoes of any kind of air, land, and water transportation, including businesses related to, necessary and/or in consequence to the said business, including but not limited to breakbulking, trucking, packaging and distribution, and bonded warehousing. It also operates as "an NVOCC (non-vessel operating common carrier) and provides consolidation services", delivers and/or transports parcels, packages, merchandise, goods and articles of every name, kind and description from one place to another, domestic or international, by air and other means of transportation; establishes, maintains and operates a regular pick-up and delivery/courier service; engages in the general delivery services and allied undertakings and any and all business activities incidental or related to carrying out this objective.

   Among its secondary purposes is also to do commercial and/or customs brokerage.

CT- 062-2021
MAR 03 2021

2. To engage in the customs business, companies must have a broker license, and ASPAC employed one individually licensed officer (i.e. customs brokers can do their job as employees or associates of freight forwarders, independent businesses, shipping lines, importers, exporters and custom brokerage firms).

   ASPAC being the employer of the said licensed custom broker deducts the 10% EWT on professional fees it pays to said employee (which is an additional income to the salary of the said employee, the salary is also subjected to withholding tax on compensation).

3. UPS is a corporation organized and existing under Philippine laws with office address at 888 Delbros Ave., Pascor Drive, Bro, Sto. Niño, Parañaque City with TIN No.

4. UPS SCS is a corporation organized and existing under Philippine laws with office address at the 2nd Floor, Cargohaus Building, NAIA Complex, Barangay Vitalex, Parañaque City with TIN No.

5. ASPAC entered into a BROKERAGE SERVICE AGREEMENT ("Agreement") with both UPS and UPS SCS.

6. The scope of services of the Agreement does not only require the services of a professional licensed custom broker who is basically needed and authorized to perform customs clearance and sign declaration documents but includes logistics, provision of communications equipment, provision of transportation equipment for personnel mobility, warehousing of documents and files, and other services.

7. UPS and other ASPAC customers deduct 2% creditable withholding tax (CWT) for supplier of services. On the other hand, UPS SCS deducts 10% CWT.

In reply, please be informed that Section 2 of Revenue Regulations (RR) No. 11-2018, as amended by RR No. 14-2018, provides:

> "**SECTION 2.** Certain items of Section 2.57.2 of RR No. 2-98 is hereby renumbered and further amended to read as follows:
>
> **SECTION 2.57.2. Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon.** — Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:
>
> **(A) Professional fees, talent fees, etc. for services rendered — On the gross professional, promotional, and talent fees or any other form of remuneration for the services rendered by the following:**
>
> Individual payee:
> If gross income for the current year did not exceed P3M - Five percent (5%)

If gross income is more than P3M or VAT Registered regardless of amount - Ten percent (10%)

Non-individual payee:

If gross income for the current year did not exceed P720,000 - Ten percent (10%)

If gross income exceeds P720,000 - Fifteen percent (15%)

x x x x x x x x x

(10) Income Payments to certain brokers and agents [formerly under letter (G)] — on gross commissions of customs, insurance, stock, immigration and commercial brokers, fees of agents of professional entertainers and real estate service practitioners (RESPs), (i.e., real estate consultants, real estate appraisers and real estate brokers) who failed or did not take up the licensure examination given by and not registered with the Real Estate Service under the Professional Regulations Commission;

x x x x x x x x x"

Considering the nature of service that ASPAC renders to UPS and UPS SCS under the Agreement, the correct creditable withholding tax (CWT) rate that should be applied and deducted on the service fees that ASPAC billed to UPS and UPS SCS is 10% or 15%, depending on its gross income for the year pursuant to Section 2 of RR No. 11-2018, as amended by RR No. 14-2018.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

040991

K-1