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

Section 123 of the Tax Code, as amended;
RMC No. 30-2008, as amended by RMC No. 059-2008
OT- 066-2022
JAN 28 2022

Salvador Llanillo and Bernardo
815-816 Tower One and Exchange Plaza
Ayala Triangle, Ayala Avenue
Makati City 1226

Attention: **Rabiev Tobias M. Racho**

Jocel Isidro S. Dilag

Josine Ma. V. Protasio

Gentlemen:

This refers to your letter dated June 8, 2021 requesting on behalf of your client, **Etiqa Life and General Assurance Philippines, Inc.** ("ETIQA" or the "Company), a ruling confirming that the gross receipts of ETIQA from its insurance services, which include providing health insurance coverage, are not subject to value-added tax (VAT), but to premium tax under Section 123 of the National Internal Revenue Code of 1997 (Tax Code), as amended.

It is represented that ETIQA is a corporation duly registered with the Securities and Exchange Commission and Bureau of Internal Revenue to carry on the business of life and non-life insurance. It is registered with the Insurance Commission as an insurance company, with authority to provide health insurance products. On February 27, 2017, the Insurance Commissioner, through a letter, confirmed that ETIQA may promote, offer, and sell health insurance products, to the public, consistent with the nature of the Company's obligation under such plans which falls within the definition of an insurance.

It is further represented that as an insurance company authorized to provide health insurance coverage, ETIQA offers group medical insurance, particularly MedProtect and MedProtect Plus plans. Through these health insurance products, ETIQA, as an insurer of health, therefore, undertakes to indemnify or reimburse ETIQA members for medical and hospitalization expenses through a scheme of an assumption of risk and distributes such risk among a group of persons bearing a similar risk.

In this regard, you now request confirmation that the gross receipts from insurance services, which include health insurance, of ETIQA are subject to premium tax.

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In reply thereto, before we delve into the taxability of the gross receipts from insurance services of ETIQA, we will first discuss whether the group medical insurance, specifically MedProtect and MedProtect Plus, are indeed health insurance products.

Section 2 (a) of Republic Act (RA) No. 10607 or the Insurance Code defines a contract of insurance as an "agreement whereby one party undertakes to indemnify another against loss damage or liability arising from an unknown or contingent event." In ***Philamcare Health System vs. Court of Appeals*** [1], the Supreme Court held that the following are the elements of an insurance contract:

1. The insured has an insurable interest;
2. The insured is subject to a risk of loss by the happening of the designated peril;
3. The insurer assumes the risk;
4. Such assumption of risk is part of a general scheme to distribute actual losses among a large group of persons bearing a similar risk; and
5. In consideration of the insurer's promise, the insured pays a premium.

Applying the foregoing discussion to the case at bar, this Office agrees that MedProtect and MedProtect Plus, which are part of ETIQA's group medical insurance meet the above elements of an insurance contract. Through such products, ETIQA undertakes, for a consideration, to indemnify a group member against loss, damage or liability through a scheme of an assumption of risk and distributes such risk among a group of persons bearing a similar risk. Thereafter, under the relevant policy issued, ETIQA is then required to reimburse the actual, necessary, reasonable and customary hospital and medical expenses incurred by an insured individual due to bodily injury, disease or sickness, subject to the maximum amount specified in the relevant schedule of benefits.

In connection therewith, please note that group insurance basically provides life or health insurance coverage for the employees of one employer [2]. In ***Revenue Memorandum Circular No. 30-2008***, the Bureau confirmed that the service of life insurance companies also includes the sale group insurance, to wit:

> *"Life insurance company is a company which deals with the insurance on human lives and insurance appertaining thereto or connected therewith.* ***The service likewise includes soliciting group insurance, and health and accident insurance policies which the company is nevertheless authorized to pursue as part of its business activity. Group insurance is essentially a single insurance contract that provides coverage for many individuals****. In its original and most common form,* ***group insurance provides life or health insurance coverage for the employees of one employer*****..... "** (Underscoring and emphasis ours)

Hence, MedProtect and MedProtect Plus are considered health insurance products because ETIQA provides coverage to a certain number of people as a group and such coverage are embodied in master agreements or policies. Moreover, ETIQA assumes a risk by undertaking to indemnify the insured for the medical expenses it incurred in consideration of the premium paid.

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[1] 379 SCRA 356 (2002)
[2] G.R. No. 105562, dated September 27, 1993

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On the basis of the foregoing discussions, the gross receipts from ETIQA's health insurance products are subject to the five percent (5%) premium tax as provided under ***Section 123 of the Tax Code, as amended***, which reads as follows:

> *"SEC. 123. Tax on Life Insurance Premiums. - There shall be collected from every person, company or corporation (except purely cooperative companies or associations)* ***doing life insurance business of any sort in the Philippines a tax of five percent (5%) of the total premium collected****, whether such premiums are paid in money, notes, credits or any substitute for money; but premiums refunded within six (6) months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax; nor upon doing business outside the Philippines on account of any life insurance of the insured who is a nonresident, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance , if the insured, in case of personal insurance, resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts (as defined in Section 232(2) of Presidential Decree No. 612), in excess of the amounts necessary to insure the lives of the variable contract workers."* (Underscoring and emphasis ours)

In relation thereto, ***RMC No. 30-2008, as amended by RMC No. 059-2008,*** states that the taxability of life insurance companies shall be subject to the five percent (5%) premium tax. The relevant provision reads as follows:

> *"Taxability of the Various Business Activities of Life Insurance Company for Business Tax and Documentary Stamp Tax. —*
>
> *(1) Direct Writings/Premiums —* ***Generally, for the premiums received by a life insurance company in undertaking its insurance activities, the same are subject to premium tax at the rate of five percent (5%) on its direct writings/premiums*** *pursuant to Section 123 of the Tax Code, as amended, to wit:*
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> *xxx xxx xxx*
>
> *It is to be emphasized, however, that premium on* ***Health and Accident Insurance, whether received by a life or non-life insurance company, shall be considered as premium on life insurance and, therefore, likewise subject to Premium Tax and not Value-added Tax.***" (Underscoring and emphasis ours)

In view of the foregoing, ETIQA who is doing business as a life insurance corporation is subject to payment of five percent (5%) premium tax on the gross receipts from its insurance services, including health insurance, as provided in Section 123 of the Tax Code, as amended. Moreover, such gross receipts from ETIQA's insurance services are not subject to VAT.

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This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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