Bringing In Revenues
for Nation-Building

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

BAGONG PILIPINAS

Certificate of Tax Exemption No.
NSH- 068-2025

CERTIFICATE OF TAX EXEMPTION

TO WHOM IT MAY CONCERN:

This certifies that **SHALOM CONSTRUCTION, INC.**, an entity engaged by the **National Housing Authority (NHA)**, is exempt from project-related income taxes and creditable withholding tax pursuant to Section 20 (d) (1) of Republic Act No. 7279, as amended by RA No. 10884 (Balanced Housing Development Program Amendments) dated July 17, 2016, on its income received directly in connection with the procurement of **366** fully developed lots and completed housing units of **Villareal Housing Project**, a socialized housing project of the NHA under the NHA's Yolanda Permanent Housing Program located at Brgy Tayud, Villareal, Samar, for the remaining works (re-bid) of 293 housing units for completion and 73 housing units for new construction.

Moreover, the delivery of **366** socialized housing units shall be exempt from value-added tax (VAT) pursuant to Section 109 (1) (P) of the National Internal Revenue Code (Tax Code) of 1997, as amended, provided that the ceiling price thereof does not exceed ₱3,199,200.00, as adjusted to ₱3,600,000.00[1] per house and lot package to take effect beginning January 1, 2024, and below; provided, however, that the delivery of lot only, regardless of value, is subject to VAT.[2]

However, the purchases of goods/articles by **Shalom Construction, Inc.**, shall be subject to VAT, even if the said purchases are to be used for the socialized housing project, since VAT is an indirect tax which can be passed on by the seller of the goods/services. It shall be understood that **Shalom Construction, Inc.**, must issue VAT-exempt official receipts on its gross receipts from the said socialized housing project.

It is, however, understood that this Certificate of Tax Exemption (CTE) is never intended, and shall not be construed, as giving authority to the concerned Register of Deeds (RD) to effect transfer of the land titles in the name of the buyer without the necessary Certificate Authorizing Registration (CAR) issued by the Bureau of Internal Revenue (BIR). In this regard, this CTE together with the documentary requirements provided under Revenue Memorandum Order No. 15-2003, shall be presented to the Revenue District Office concerned in order for the latter to issue the CAR.

Upon application for exemption, a lien shall be annotated on the title of the land by the concerned RD having jurisdiction over the property, to the effect that the same are to be applied or are being applied to a socialized housing project pursuant to RA No. 7279, as amended.

This CTE is being issued on the basis of the facts and documents as represented and submitted. However, if upon investigation, the BIR ascertains that the facts are different, then this Certificate shall be considered null and void.

Issued this ___ day of APR 15 2025

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K-1-SPF

[1] As adjusted using the 2023 Consumer Price Index values per Revenue Regulations No. 1-2024 dated January 1, 2024.
[2] Sale of lot only, regardless of the price, shall be subject to VAT starting January 1, 2021 pursuant to RA No. 10963.

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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
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National Office Building
Quezon City

BAGONG PILIPINAS

Sections 23(F), 28(B), 42(A)(4)(c) and 42(C)(3) of the Tax Code, as amended; Aces Philippines Cellular Satellite Corporation vs. CIR	OT- 066-2025 APR 15 2025

Person to Contact: Chief, Legal and Legislative Division
Tel Nos. 8926-55-36 / 8927-09-63

Ajanta Pharma Philippines, Inc.
Unit 710 Axa Life Bldg.
128 Sen. Gil Puyat Ave.
Makati City

Attention: **Jasmin De Belen**
Accounting Manager

Gentlemen:

This refers to your request for confirmation of your opinion that the service fees paid by **Ajanta Pharma Philippines, Inc.** ("**Ajanta**") for the services rendered by **Investrade Pte. Ltd.** ("**Investrade**") are not subject to income tax pursuant the National Internal Revenue Code of 1997, as amended ("**Tax Code**").

It is represented that Ajanta is a corporation organized and existing under the laws of the Republic of the Philippines engaged in the business of distributing, on a wholesale basis, pharmaceutical products. On the other hand, Investrade is a non-resident foreign corporation (NRFC) organized and existing under the laws of Singapore. Under the Certificate of Non-Registration issued by the Securities and Exchange Commission (SEC), Investrade is not registered as a corporation, partnership or one-person corporation in the Philippines.

On January 3, 2022, the above-mentioned Companies entered into a Service Agreement wherein Investrade will provide (1) software development for monitoring field force for visits and call to healthcare professionals and (2) installation and online training to run the developed software for Ajanta. Furthermore, it is represented that these services will be performed entirely in Singapore.

In this regard, you request confirmation of your opinion that the payment of service fees of Ajanta to Investrade is not subject to income tax, and consequently to withholding tax.

In reply, ***Section 25 (B) of the Tax Code*** states that a non-resident alien individual not doing business in the Philippines is taxable only on income derived from sources within the Philippines, *viz:*

"SEC. 25. Tax on Non-resident Alien Individual. –

(B) Non-resident Alien Individual Not Engaged in Trade or Business Within the Philippines – There shall be levied, collected and paid for each taxable year upon the entire income received from all sources within the Philippines by every non-resident alien individual not engaged in trade or business within the Philippines as interest, cash and/or property dividends, rents, salaries, wages, premiums, annuities, compensation, renumeration, emoluments, or other fixed or determinable annual or periodic or casual gains, profits, and income, and capital gains, a tax equal to twenty-five percent (25%) of such income.... xxx"

In connection therewith, ***Section 23 (D) of the Tax Code*** states that:

"SEC. 23. General Principles of Income Taxation in the Philippines. –

xxx xxx xxx

(D) An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines."

Concerning income from the provision of service, this is considered derived in the Philippines only if the services are actually performed in the Philippines under ***Section 42 (A)(3) of the Tax Code.***

The rule in this jurisdiction regarding tax situs is that the source of income is the property, activity or service that produced the income, the test of taxability is the "source" and the source of income is that activity which produced the income[1]. In ascertaining the income source, we must inquire into the property, activity or service that produced the income, or where the inflow of wealth originated.[2] After identifying the source of the income, we now inquire into the situs which is where the inflow of wealth and/or economic benefits proceeds from.

In the recent case of *Aces Philippines Cellular Satellite Corporation vs. the Commissioner of Internal Revenue*[3], the Supreme Court discussed that in determining the income generating activity of a NRFC, the services outlined in the service agreement must be examined in its entirety or as a whole, and not to single out or compartmentalize one particular activity. In other words, the examination of a NRFC's service or activity should unfold in a sequential manner, thereby establishing the point at which said service or activity is completely rendered, leading to the commencement of the income-producing endeavor or inflow of economic benefits.

Here, we note that the enumerated services in the Service Agreement executed between Ajanta and Investrade does not particularly detail how each service or activity is to be performed. As a result, it would be challenging to determine the income-producing endeavor or inflow of economic benefits of each service or activity. Consequently, the determination of whether a specific activity or service is carried out entirely within or outside the Philippines poses difficulties.

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[1] *CIR v. British Overseas Airways Corporation* (G.R. Nos. 65773-74, April 30, 1987)
[2] *Aces Philippines Cellular Satellite Corporation vs. CIR* (GR No. 226680, August 30, 2021)
[3] GR No. 226680, August 30, 2022

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Settled is the rule that exemptions from tax are strictly construed against the taxpayer and liberally construed in favor of the taxing authority. One who claims tax exemption must point to a specific provision of law conferring, in clear and plain terms, exemption from the common burden and prove, through substantial evidence, that it is, in fact, covered by the exemption so claimed.[4] In addition, the rule is that the taxpayer bears the burden of proving that the "income was from sources outside the Philippines and exempt from the application of our income tax law."[5] In light of this context, it is the opinion of this Office that Ajanta failed to establish that the service fees or income payments to Investrade for the services or activities rendered are foreign-sourced.

Furthermore, there is no evidence to show that the software has indeed been developed by Investrade in favor of Ajanta and that ownership of the developed software has indeed been transferred to Ajanta. Absent such evidence – and considering that payment of services is made on a regular basis – we consider the transactions, as specified in the Service Agreement, as a supply of scientific, technical, industrial, or commercial knowledge or information. Hence, income derived from such transactions is considered services within the Philippines pursuant to ***Section 42 (A)(4)(c) of the Tax Code***.

Therefore, the payment of service fees of Ajanta to Investrade shall be subject to income tax, and consequently to withholding tax.

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,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K-1 - CDM

[4] *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al. v. Commissioner, Bureau of Internal Revenue, et al.* (G.R. Nos. 213446 & 213658, July 3, 2018.)
[5] *Aces Philippines Cellular Satellite Corp. v. Commissioner of Internal Revenue* (G.R. No. 226680, August 30, 2022)