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

Section 39 of RA No. 8291
Section 86 (r) of RA No. 10963
OT- 106-2023

DEC 18 2023

GOVERNMENT SERVICE INSURANCE SYSTEM
Financial Center, Pasay City
Metro Manila 1308

Attention: **Jose Arnulfo A. Veloso**
President and General Manager

Gentlemen:

This refers to your letter relative to your request for clarification on the applicability of the Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 59-2008, as amended by RMC No. 49-2010, to personal accident insurance policies issued by the Government Service Insurance System (GSIS).

Specifically, you seek clarification on whether the GSIS issued personal accident insurance policies are subject to a premium tax rate of 2% despite the GSIS exemption from all taxes, assessments, fees, charges, or duties of all kinds.

In reply, please be informed that the GSIS is exempt from all taxes pursuant to Section 39 of Republic Act No. 8291, amending Presidential Decree No. 1146, otherwise known as the Government Service Insurance System Act of 1997, viz:

> "SECTION 39. Exemption from Tax, Legal Process and Lien. —
>
> *xxx xxx xxx*
>
> Accordingly, notwithstanding any laws to the contrary, the GSIS, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges or duties of all kinds.
>
> *xxx xxx xxx*"

It's crucial to note that Section 39 of Republic Act No. 8291 further states that the exemptions of the GSIS shall remain unaffected by subsequent laws unless those laws expressly, specifically, and categorically revoke or repeal the exemptions provided.

In this connection, Section 86 (r) of RA 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) law made effective on January 1, 2018, explicitly provides for the repeal of Section 39 of Republic Act No. 8291, to wit:

"SECTION 86. Repealing Clause. — The following laws or provisions of laws are hereby repealed and the persons and/or transactions affected herein **are made subject to the VAT provision of Title IV of the NIRC**, as amended:

xxx xxx xxx

(r) Section 39, insofar as VAT exemption is concerned, of R.A. 8291 or The Government Service Insurance System Act of 1997.

xxx xxx xxx"

It is worth highlighting, however, that the repeal of the TRAIN law regarding the exemption of the GSIS applies exclusively to the value-added tax (VAT). To reiterate, the TRAIN Law only revokes the VAT aspect of Section 39 and does not abolish the entire provision. Consequently, the GSIS continues to enjoy tax exemption for all taxes, except VAT.

Nonetheless, it is important to emphasize that the removal of the VAT exemption will not impact the tax treatment of personal accident insurance policies issued by the GSIS. This is because the premiums for Health and Accident Insurance are subject to Premium Tax rather than VAT, as outlined in RMC No. 49-2010, as follows:

"Sec. 123. Tax on Life Insurance Premiums. — There shall be collected from every person . . .

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.**

xxx xxx xxx"

In view of the foregoing, while personal accident insurance premiums are subject to premium tax, this does not extend to personal accident insurance policies issued by the GSIS due to its exemption explicitly mandated by RA No. 8291, otherwise known as the Government Service Insurance System Act of 1997.

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
029985

K-1-KNB