REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Tax Code of 1997, as amended, Section 32(B)(6)(a)
BIR Ruling No. 297-2012
#075-2016 3-1-2016

MANLY PLASTICS, INC.
404 M. H. Del Pilar St.
Maysilo, Malabon City

Attention: **Ms. Jing Reyes**
Paymaster

Gentlemen:

This refers to your inquiry sent via email on December 19, 2013 on whether or not the retirement benefits to be paid to **Mr. Calixto Mortel Sabigan** ("**Mr. Sabigan**") upon his retirement on January 1, 2014 shall be exempt from income tax pursuant to Republic Act (RA) No. 7641.

It is represented that **Mr. Sabigan**, with Tax Identification Number , had been employed by **Manly Plastics, Inc.**, as Injection Shift Supervisor since August 10, 1979; that **Mr. Sabigan** was due for retirement on January 1, 2014, after rendering more than thirty four (34) years of service in the company and upon reaching the age of sixty three (63); and that the company has no retirement plan or collective bargaining agreement that would cover the retirement benefits of **Mr. Sabigan**.

In reply, please be informed that pursuant to Section 32 (B)(6)(a) of the Tax Code of 1997, as amended, retirement benefits received under Republic Act No. 7641 shall not be included in the gross income of the retiring employee and therefore not forming part of his taxable income. Under the said Act, in the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is declared the compulsory retirement age, who has served at least five (5) years in the service of the same employer, may retire and shall be entitled to retirement pay equivalent to at least one-half (½) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Based on the foregoing and since **Mr. Sabigan** has already reached the age of sixty three (63) at the time of retirement after completion of at least five (5) years of service in the company, the retirement benefits he will receive pursuant to R.A. 7641 are not subject to income tax and consequently to the withholding tax imposed under

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Section 79, Chapter XIII, Title II of the Tax Code of 1997. (*BIR Ruling No. 297-2012* dated May 3, 2012)

Moreover, pursuant to Section 2.78.1 (A)(7) of RR 2-98, as amended, the terminal pay, *i.e.*, commutation and payment of monetized unused vacation leave credits not exceeding ten (10) days during the year are not subject to income tax and consequently to the withholding tax. Conversely, the cash equivalent of vacation leave exceeding ten (10) days is subject to tax. However, this same principle cannot apply to SICK leave credits since an employee must actually go on sick leave to be able to avail of said leave credits.

It is understood that this exemption does not include the payment to **Mr. Sabigan** of his salaries and the payment of the 13th month pay and other benefits in excess of the Php 30,000 threshold under Section 2.78.1 (A)(3)(a) and (A)(7) of RR 2-98, as amended. (*BIR Ruling No. 297-2012* dated May 3, 2012)

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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FEB 29 2016

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