September 6, 2018

BIR RULING NO. 1168-18

Sections 122 & 109 (V), * Tax Code; BIR Ruling No. 002-2006; DA-(048) 181-09

Du-Baladad and Associates
20th Floor, Chatham House, Rufino Cor. Valero Sts.
Salcedo Village, 1227, Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated August 17, 2017 requesting on behalf of your client, **SB Capital Investment Corporation** ("SBCIC" or the "Company"), for a confirmation of your opinion that all interests, commissions, discounts and all other items treated as gross income of SBCIC, an investment house and a non-bank financial intermediary, are subject to Gross Receipts Tax (GRT) pursuant to Section 122 of the Tax Code, as amended by Section 4 of Republic Act No. 9238, and not to Value Added Tax (VAT).

As represented, SBCIC (TIN: 000-000-000) is a corporation duly organized and existing under the laws of the Philippines, with principal office address at the 18F Security Bank Center, 6776 Ayala Ave., Makati City, 1226. It is a subsidiary of Security Bank Corporation and is a Bangko Sentral ng Pilipinas ("BSP")-supervised non-bank financial institution. It is primarily engaged in the operation of an investment house.

SBCIC has an Investment House License from the Securities and Exchange Commission [1] and a Trust License from the Bangko Sentral ng Pilipinas. [2] It is a non-VAT entity registered with the Bureau of Internal Revenue. [3]

In the exercise of its powers and functions as an investment house, the company earns income from interests, commissions and discounts.

In reply, please be informed as follows:

SBCIC is subject to GRT

Section 2.3 of Revenue Regulations (RR) No. 9-2004, as amended by RR No. 10-2004, implementing Section 122 of the Tax Code of 1997, as amended, defines

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"Non-Bank Financial Intermediaries" as follows:

> "Sec. 2.3. Non-bank Financial Intermediaries. — Shall refer to persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them or otherwise coursed through them, either for their own account or for the account of others. This includes all entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates of assignment or similar instruments with recourse, trust certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally."

SBCIC is a Non-Bank Financial Intermediary subject to Gross Receipts Tax pursuant to Section 122 of the Tax Code of 1997, as amended by R.A. No. 9238, and as implemented by Section 4 of the same RR 9-2004 which provides as quoted:

> "**Section 4. Imposition of Gross Receipts Tax on Other Non-Bank Financial Intermediaries**. — Gross receipts of other non-bank financial intermediaries (non-bank financial intermediary not performing quasi-banking functions) doing business in the Philippines shall be subject to GRT at rates and on items of income provided hereunder:
>
> (a) From interest, commissions, discounts and all other items treated as gross income under the Code — 5%
>
> (b) On interests, commissions and discounts from lending activities as well as income from financial leasing on the basis of remaining maturities of the instruments from which such receipts are derived:
>
> Maturity period is five (5) years or less — 5%
>
> Maturity period is more than five (5) years — 1%"

SBCIC is not subject to VAT

Section 109 (1) (V) [4] of the Tax Code of 1997, as amended, exempts from VAT services of banks, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries. SBCIC, being a non-bank financial intermediary, is therefore, exempt from VAT on its services in accordance with Section 109 (1) (V) of the Tax Code of 1997, as amended.

IN VIEW OF THE FOREGOING, this Office hereby confirms your opinion that SBCIC is subject to the above Gross Receipts Tax rates depending on the maturity period under Section 122 of the Tax Code of 1997, as amended, and as implemented by Revenue Regulations No. 9-2004, on its interests, commissions, discounts and all other items treated as gross income of SBCIC. Moreover, SBCIC is exempt from VAT pursuant to

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Section 109 (V) of the Tax Code of 1997, as amended, on its services as a non-bank financial intermediary.

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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. SEC Certification dated December 29, 2014, SEC Confirmation of Renewal of Registration/License dated November 27, 2015 and November 29, 2016.
2. Confirmation letters from the BSP dated June 26, 2013 and August 15, 2013 state that SBCIC is registered as an investment house without quasi-banking functions.
3. Certificate of Registration with the BIR dated January 16, 1995.
4. Renumbered by Republic Act No. 10963 (TRAIN Law).

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