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

Section 32(B)(6)(b), 1997 NIRC
BIR Ruling No. 555-2012
BIR Ruling No. 425-2011
BIR Ruling No. 008-2011
#118-2016
4-12-2016

Bank of Florida, Inc.
McArthur Highway, Dolores
City of San Fernando, Pampanga

Attention : Ms. Gina T. Vallejo
Human Resources Group Head

Gentlemen:

This refers to your letter dated January 13, 2014 requesting for the issuance of a certificate of tax exemption on the separation pay given to officers and employees of Bank of Florida, Inc. who have been separated from service due to cessation of the latter's business pursuant to Sec. 32(B)(6)(b) of the 1997 Tax Code, as amended.

Documents submitted show that Bank of Florida, Inc. (TIN is a domestic corporation organized and registered with the Securities and Exchange Commission (SEC) under Company Reg. No. It is formed for the purpose of carrying and engaging in the business of extending rural credits to small farmers and tenants and to deserving rural industries or enterprises. Bank of Florida, Inc. will cease its operation on December 31, 2013 due to consolidation with Bank of Lubao effective January 1, 2014 and the new consolidated bank will henceforth be known as BOF, Inc. operating under the business name and style of Bank of Florida (A Rural Bank). As a result of the consolidation all the employees of Bank of Florida, Inc. will be severed from their employment. The following is the list of workers that will be separated from employment:

	Name of Employee	Position
1.	Abanilla, Maricel C.	Supv II – Branch Head
2.	Adriano, Ginalyn I.	Accounting Assistant
3.	Aftong, Edna M.	Asst. Manager I/Branch Head
4.	Aguilar, Noel M.	ARD Assistant
5.	Alfonso, Ryan David I.	Account Asst. I
6.	Atienza, Lovelyn R.	Teller
7.	Bacani, Noel G.	Sr. Mngr. I-ASecO/Remedial Center
8.	Bagang, Krizia E.	Teller
9.	Balisi, Hazel G.	Supv IV – Branch Head
10.	Baluyut, Corazon C.	Supv II – PA/AA
11.	Baluyut, Maila C.	Supv I – AcD
12.	Baron, Johanna Winshmela C.	Teller
13.	Barrera, Jenalyn Joy S.	Teller/Cashier
14.	Batas, Maria Charo A.	Chief Compliance Officer
15.	Bello, Michael Dennis R.	Asst. Mngr. II – Hardware Dept. Head
16.	Beltran, Maritell F.	Supv II – Accountant
17.	Binuya, Rona Q.	AVP II – BOG
18.	Cachero, Christer Jopseph S.	Supv I – ICTG Supervisor
19.	Cachero, Ma. Ethel Joy A.	Supv II – TQMG OIC

040380

20.	Camaya, Rowena Ann S.	Teller
21.	Canlas, Adalia S.	Supv II – Branch Head
22.	Canlas, Gloria G.	Project Development Supv II
23.	Carlos, Teresa D.	Chairman/President
24.	Castro, Grace D.	Sr. Mngr. I
25.	Cayabyab, Liana Lynn Z.	Supv I – PDMD
26.	Completo, Cristy C.	Accounting Assistant
27.	Concepcion, Albert P.	Rediscount Asst. I
28.	Concepcion, Sandra Karolyn G.	Accounting Assistant
29.	Cortez, Airalyn M.	Teller/Cashier
30.	Cruz, Jo Ann S.	Admin. Assistant II
31.	Cunanan, Francis M.	Supv II – Credit Investigator
32.	David, Dale Dennis M.	Senior Executive Vice-President II
33.	De Leon, Ignacio T.	Supv III – ABG Account Supervisor
34.	Dela Cruz, Anniechel L.	Supv I – SF Custodian
35.	Dela Cruz, Dolly D.	Sr. Mngr. I – Account Officer
36.	Delos Santos Mary Joyce P.	Supv II
37.	Deniega, Sherwin P.	DMJ
38.	Descanzo, Irma T.	Posting/Accounting Asst.
39.	Dimacali, Karen M.	Supv I – Cashier
40.	Dizon, Meryann Frances F.	Supv II
41.	Duya, Jennifer D.	Supv III – Branch Head
42.	Enierga, Mary Anne M.	Supv I – Cashier
43.	Escalante, Cecile G.	AVP I – ICTG
44.	Evangelista, Einar B.	VP I – Credit Group
45.	Evaristo, Eric C.	Teller/Cashier
46.	Fajardo, Arden John I.	Supv II – Account Supervisor
47.	Ferry, Criselda U.	Supv II – PuD
48.	Figueroa, Gina Jousef C.	CeCD Asst.
49.	Flores, Roxanne C.	Account Assistant
50.	Galang, Ama Fe S.	Supv III – Branch Head
51.	Garcia, Catrine M.	Teller I
52.	Garcia, Daisy D.	Teller I
53.	Garcia, Johny D.	PMD Assistant
54.	Garcia, Mary Rose D.	Supv I – RTD Head
55.	Gasparillo, Eslie D.	Teller I
56.	Gonzales, Francis R.	Supv I – Credit Investigator
57.	Guanzon, Remedios C.	Supv III – Cashier
58.	Guina, Angeli Grace J.	Teller/Cashier
59.	Gutierrez, Jennylyn M.	Teller I
60.	Jaype, Beverly R.	Supv IV – Branch Head
61.	Juarez, Camille Monlea E.	Loan Subsidiary Assistant
62.	Lagman, Jayson M.	Asst. Manager I – Software Dept. Head
63.	Lalic, Arcel T.	Treasury Asst. II
64.	Lao, Nida S.	AVP II - AAMG Head
65.	Lapuz, Jocelyn A.	Supv II/BH Reliever
66.	Lising, Marina M.	Supv II
67.	Lopez, Lita P.	Asst. Mngr. I – AcD Head
68.	Lugay, Alfie D.	Supv IV – Account Supervisor
69.	Malabanan, Hail D.	Supv IV – Branch Banking Trainer
70.	Malabanan, Judy Annemarie C.	Sr. Mngr. II
71.	Mallari, Kashmere B.	Loan Subsidiary Asst. I
72.	Mallri, Kenneth M.	Posting Assistant

040380

73.	Mallari, Laarnica E.	Posting Assistant
74.	Manalad, Jessica S.	Teller I
75.	Manalang, Gilbert M.	M/J
76.	Manlastas, Julie Ann B.	Admin. Asst. I
77.	Manalo, Zarah Camille P.	Teller I
78.	Manaloto, Theresa L.	Posting Assistant
79.	Mananquil, Aiza P.	Posting Assistant
80.	Manansala, Roel F.	DMJ
81.	Manarang, Monina C.	Teller/Cashier
82.	Mangalus, Cristina O.	AVP II – ASD & PuD
83.	Mangio, Kimberly I.	Teller Reliever
84.	Maniago, Lavinia G.	Teller I
85.	Maninang, Erlisa C.	Asst. Mngr. II
86.	Maru, Monico Andrew G.	Liason Assistant
87.	Mendez, Jovelyn M.	Supv II – Cashier
88.	Mendoza, Catherine P.	Teller I
89.	Mercado, Dimple Kaye V.	Admin Assistant
90.	Mercado, Ernesto Jr. S.	Supv I – PMD Head
91.	Mercado, Gil V.	M/J
92.	Miranda, Dominador F.	M/J
93.	Montano, Marian A.	Asst. Mngr. II
94.	Morilla, Maria Salvacion R.	Asst. Mngr. I
95.	Nunga, Susan D.	Senior Executive Vice-President III
96.	Ocampo, Carmelo M.	Supv III – Account Supervisor
97.	Oloquino, Janet V.	Supv III – Branch Head
98.	Ortañez, Peter John M.	CrG Assistant
99.	Pablio, Joanna N.	Teller/Cashier
100.	Paguio, Myrin M.	Asst. Mngr. I – LAG Head
101.	Panganiban, Jaime P.	EVP I – Lending Operations
102.	Pangilinan, Dave G.	Supv I
103.	Patiu, Ma. Lourdes R.	Teller I
104.	Paule, Ma. Fe C.	Mngr. I
105.	Perez, April G.	Supv I – BSF Custodian
106.	Pucut, Marijane C.	Teller/Cashier
107.	Pulido, Analiza O.	Senior Executive Vice-President I
108.	Quiambao, Sydney C.	Supv IV – CeCD Head
109.	Quibal, Cherie Lyn C.	Accounting Assistant
110.	Quizon, Liza G.	Mngr. I
111.	Ramirez, Reiza Ana R.	Posting Assistant
112.	Regala, Christine C.	Accounting Asst.
113.	Reyes, Joy Katherine R.	Supv I – Accountant
114.	Roberto, Rowena D.	Supv II - Branch Head
115.	Romero, Cristian A.	Teller I
116.	Sagum, Prima V.	Teller/Cashier
117.	Salazar, Eva R.	Supv II - Branch Head
118.	Salonga, Rose Ann G.	Payroll Asst. I
119.	Salvador, Odessa A.	Sr. Mngr. I – Chief Internal Auditor
120.	Sampang, Anabelle C.	IAG Assistant
121.	Sampang, Apple Jane B.	Teller I
122.	Santos, Erica Q.	PDMD Assistant
123.	Sarmiento, Antonio S.	DMJU
124.	Sarmiento, Peter M.	Teller Reliever
125.	Sason, Desiree M.	Mngr. I – Branch Manager

040280

126.	Sason, Jeffrey C.	Asst. Mngr. II – Account Officer
127.	Serzo, Cristina M.	Accounting Asst.
128.	Suba, Jennavee U.	Teller/Cashier
129.	Susi, Alex Murphy C.	Loan Subsidiary Assistant
130.	Tadeo, Richard C.	Asst. Mngr. I
131.	Tapang, Arceli M.	Supv III - Teller
132.	Tasipit, Pebbles Q.	TQMG Assistant
133.	Tengco, Christopher C.	Loan Subsidiary Assistant
134.	Tiamzon, Louie C.	Asst. Mngr. I
135.	Ticsay, Corina D.	Posting Assistant
136.	Timbol, Elenita L.	Supv I – Posting Asst.
137.	Tolentiono, Aljun R.	APD OIC
138.	Tongol, Annete G.	Mngr II – Branch Manager
139.	Tongol, Cicero M.	Supv I
140.	Tolention, Ethel C.	Posting Assistant
141.	Tuazon, Mark Gil D.	ICTG Assistant
142.	Tungul, Julie M.	ABG Assistant
143.	Vallejo, Gina T.	Senior Manager I – HRS Head
144.	Ventura, Ronnie V.	Supv I – Account Supervisor
145.	Vergara, Aiza Marie L.	Posting Assistant
146.	Vertudes, Jerald G.	Credit Investigator
147.	Vitug, Percival R.	M/J
148.	Wong, Harvey C.	Supv II – ASD Head

the Establishment Termination Report was duly received by Department of Labor and Employment-Pampanga Field Office on November 29, 2013, and the corresponding Notices of Termination of Employment to the affected employees are duly received by the afore-stated workers.

In reply, please be informed that pursuant to Section 32(B)(6)(b) of the Tax Code of 1997, any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer because of death, sickness or other physical disability or for any cause beyond the control of the said official or employee is exempt from taxes regardless of age or length of service. The phrase "for any cause beyond the control of said official or employee" connotes involuntariness on the part of the official or employee. The separation from the service of the official or employee must not be asked for or initiated by him.

This Office has had several occasions to rule that the above-mentioned law requires the presence of two (2) conditions in order that the employee benefits may be granted tax exemption, namely: (1) the employee is separated from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee; and (2) the employer pays benefits to the official or employee or his heirs as a consequence of such separation. (BIR Ruling No. 008-11 dated 19 January 2011)

In view thereof, this Office is of the opinion that since it appears that the employees of Bank of Florida, Inc., as enumerated herein have proven to have been separated from the service of the employer because of consolidation, a cause beyond the control of said employees, any amount to be received by them as a consequence of said separation is exempt from income tax and consequently from the withholding tax prescribed under Section 79, Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 6-2001 and 12-2001.

040380

Accordingly, no withholding taxes shall be deducted from the separation benefits and the entire amount thereof shall be given to the entitled separated employee. (BIR Ruling No. 425-11 dated November 4, 2011)

Also, 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. (BIR Ruling No. 425-11 dated November 4, 2011)

It is, however, understood that this exemption does not include the payment of the separated employees' salaries and the payment of the 13th month pay and other benefits in excess of the Php82,000.00[1] threshold under Section 2.78.1 (A)(3)(a) and (A)(7) of RR 2-98, as amended. (BIR Ruling No. 555-12 dated September 6, 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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[1] As amended by Revenue Regulations No. 3-2015 dated March 13, 2015