October 19, 2018

BIR RULING NO. 1272-18

Revenue Memorandum Circular No. 18-2011;
Sections 24 (B) (1) & 25 (A) (2) of the Tax
Code of 1997; BIR Ruling No. 028-10; BIR
Ruling No. 084-12

Planters Development Bank
314 Sen. Gil J. Puyat Avenue
Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 17, 2012 requesting for certificate of tax exemption from the 20% final tax imposed on the interest income from deposit or investment derived by Long-term Individual Trust Accounts under Section 24 (B) (1) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that the Tax-Exempt Individual Trust Account is a long-term individual trust arrangement whereby the individual or natural person (as Trustor) opens an Individual Trust Account and gives instructions to the Bank's Trust Department (as Trustees) to invest his/her funds in securities which are acceptable to the Trustor at prevailing market rates.

Product Features:	
Minimum Contribution Requirement	At least Php0.100 Million per account
Minimum Term of Arrangement	Minimum term of five (5) years and one (1) day Individual Trust Account term may be coterminous with the investment term (if longer than five years)
Eligible Investors	Individuals who are Filipino citizens or resident aliens doing business in the Philippines and who have the capacity to enter into contracts
Eligible Securities/Investment Outlets	Savings deposit, Time deposits, Government

Copyright 2020 CD Technologies Asia, Inc.

	securities, Prime companies' Fixed rate bonds or Corporate Notes or other investment outlets specifically authorized by the Trustor in writing
Taxability of Income	Interest Income is exempt from income tax or 20% final withholding tax provided the funds stay in the Individual Trust Account for at least five (5) years without pre-termination
	If pre-termination of the individual Trust Account cannot be avoided, the income of the funds withdrawn before the lapse of the five (5)-year period counted from the time the contribution was made, shall be taxed at the following rates:

Holding period	Tax Rate
Less than three (3) years	20%
Three (3) yrs to less than four (4)	12%
Four (4) yrs to less than five (5)	5%
Five (5) yrs or more	0%

Documentation	* Individual Trust Agreement and ** Confirmation of Investment Instruction

In reply, please be informed that the exemption from income tax on interest income is allowed to individual citizens, resident alien individuals and non-resident alien individuals engaged in trade or business in the Philippines who invest in long-term deposit or investment certificates. Section 24 (B) (1) of the NIRC of 1997, as amended, provides, thus:

"B) Rate of Tax on Certain Passive Income. —

(1) A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements; . . . : Provided, further, That interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from the tax imposed under this Subsection: Provided, finally, That should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investment certificate based on the remaining maturity thereof:

Four (4) years to less than five (5) years — 5%;

Three (3) years to less than (4) years — 12%; and

Copyright 2020 CD Technologies Asia, Inc.

Less than three (3) years — 20%"

Likewise, Section 25 (A) (2) of the NIRC of 1997, as amended, infra provides —

"(2) . . . Interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) shall be exempt from tax imposed under this Subsection: Provided, finally, That should the holder of the certificate pre-terminate the deposit or investment before the fifth (5th) year, a final tax shall be imposed on the entire income and shall be deducted and withheld by the depository bank from the proceeds of the long-term deposit or investments certificate based on the remaining maturity thereof:

Four (4) years to less than five (5) years — 5%;

Three (3) years to less than (4) years — 12%; and

Less than three (3) years — 20%"

Corollarily, Section 22 (FF) of the NIRC of 1997, as amended, defines the term "long term deposit or investment certificate" as follows:

(FF) The term 'long-term deposit or investment certificates' shall refer to certificate of time deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments with a maturity period of not less than five (5) years, the form of which shall be prescribed by the Bangko Sentral ng Pilipinas (BSP) and issued by banks only (not by non-bank financial intermediaries and finance companies) to individuals in denominations of Ten thousand pesos (P10,000) and other denominations as may be prescribed by the BSP.

Revenue Memorandum Circular No. 18-2011 dated April 12, 2011, in clarifying the income tax exemption of interest income earnings from long-term deposits or investments certificates, provides that the following characteristics/conditions should be present to enjoy income tax exemption, to wit:

1. the depositor or investor is an individual citizen (resident or non-resident) or resident alien or nonresident alien engaged in trade or business in the Philippines and not a corporation;

2. the long-term deposits or investments certificates should be under the name of the individual and not under the name of the corporation or the bank or the trust department/unit of the bank;

Copyright 2020 CD Technologies Asia, Inc.

3. the long-term deposits or investments must be in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP);

4. the long-term deposits or investments must be issued by banks only and not by other financial institutions;

5. the long-term deposits or investments must have a maturity period of not less than five years;

6. the long-term deposits or investments must be in denominations of Ten thousand pesos (P10,000) and other denominations as may be prescribed by the BSP;

7. only the interest income from long-term deposits or investments certificates are covered by income tax exemption;

8. income tax exemption does not cover any other income such as gains from trading, foreign exchange gain; and

9. the long-term deposits or investments should not be terminated by the investor before the fifth year, otherwise it shall be subjected to the graduated rates of 5%, 12% or 20% on interest income earnings.

Therefore, the availment of exemption from the income tax and, consequently, from the required withholding tax, of the interest income derived by the clients of Planters Development Bank from Long-term Individual Trust Accounts depends on the strict and full compliance of the above-cited conditions, otherwise, the interest income shall be subject to the 20% final withholding tax under Sections 24 (B) (1) and 25 (A) (2) of the NIRC of 1997, as amended, and the 2% creditable withholding tax under Revenue Regulations (RR) No. 2-98, as amended. For this reason, a tax exemption certificate is not required for the provisions of Sections 24 (B) (1) and 25 (A) (2) to apply to the interest income derived by the clients of Planters Development Bank from Long-term Individual Trust Accounts arrangements. (BIR Ruling No. 084-12 dated February 25, 2012 and BIR Ruling No. 028-2010 dated August 12, 2010).

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,

Copyright 2020 CD Technologies Asia, Inc.

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

Copyright 2020 CD Technologies Asia, Inc.