November 15, 2018

BIR RULING NO. 1334-18

Sections 270, 71, 20 of the 1997 National Internal Revenue Code, as amended; BIR Ruling No. 010-11; RMC 50-2016

Eleuteria L. Mirasol
Legislative Committee Secretary
Committee on Government Corporations and Public Enterprises
Senate
Pasay City

Madame :

This refers to your letter dated January 8, 2018, requesting the submission of income as of December 31, 2017 generated by the following agencies: (1) Subic Bay Metropolitan Authority (SBMA); (2) Clark Development Authority (CDA); (3) Aurora Pacific Economic Zone and Freeport Authority (APECO); (4) Philippine Economic Zone Authority (PEZA); (5) Tourism Infrastructure and Enterprise Zone Authority (TIEZA); and (6) Bases Conversion and Development Authority (BCDA).

The policy that we observe in the Bureau is really one of immediate compliance with what is required of us for purposes of congressional committee deliberations and hearings, clearly an exercise of a legislative prerogative. Highlighting this point, we are committed — and shall always exert effort — to fully extend all assistance on all matters required in legislative hearings.

In reply, we humbly submit that the information about a taxpayer's tax return, such as its income, is afforded the highest degree of confidentiality. No official or employee of the Bureau of Internal Revenue (BIR) may divulge information regarding a tax return without violating Section 270 of the 1997 National Internal Revenue Code, as amended ("Tax Code"), which states that:

> *"SEC. 270. Unlawful Divulgence of Trade Secrets.* [1] *— Except as provided in Sections 6 (F) and 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income, or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was*

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acquired by him in the discharge of his official duties, shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both."

While there are exceptions to the abovementioned provision of the Tax Code, none of them are availing under the facts as represented. Section 71 of the Tax Code states:

"SECTION 71. Disposition of Income Tax Returns, Publication of List of Taxpayers and Filers. — After the assessment shall have been made, . . . the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the Office of the Commissioner and ***shall constitute public records and be open to inspection as such upon the order of the President of the Philippines, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner****." (emphasis supplied)*

On the other hand, Par. 1 of Section 20 of the Tax Code, states that:

"SECTION 20. Submission of Pertinent Information to Congress. — The provision of Section 270 of this Code to the contrary notwithstanding, the Commissioner shall, upon request of Congress and in aid of legislation, furnish its appropriate Committee pertinent information including but not limited to: industry audits, collection performance data, status reports in criminal actions initiated against persons and taxpayer's returns: ***Provided, however, That any return or return information which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer shall be furnished the appropriate Committee of Congress only when sitting in Executive Session unless such taxpayer otherwise consents in writing to such disclosure****." (emphasis supplied)*

It is evident from the above provision that BIR personnel cannot divulge information gained from taxpayers concerning the latter's business, income, or estate as well as the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer. Any documents containing these types of information in the BIR's possession are not considered as public documents but are in fact treated as confidential, in accordance with Section 270 of the same Tax Code.

The divulgence of confidential information does not only erode the confidence of the taxpaying public in the reliability and ability of the BIR to safeguard the secrecy of the information, but also puts life and safety in danger. As such, the BIR issued Revenue Memorandum Circular (RMC) 50-2016, reminding its officials and employees that the unauthorized disclosure or divulgence of official or confidential information is criminally and administratively punishable by law and existing revenue issuances. The circular serves as a warning to revenue officials and employees that they will be held criminally and administratively liable if they violate the law.

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In view thereof, as the exceptions do not apply under the facts as represented, we regret to inform you that under the strict mandate of the law, we cannot accede to your request for such information. (BIR Ruling No. 010-11 dated January 19, 2011)

Very truly yours,

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

Footnotes

1. As amended by RA10021 (March 5, 2010) and implemented by Revenue Regulations No. 10-2010 (October 6, 2010) and Revenue Memorandum Circular No. 029-10 (March 19, 2010).

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