November 16, 2020

BIR RULING NO. 1370-18

Republic Act (RA) No. 7916; RR Nos. 2-98 &
1-2000; RMC 8-2014

Granexport Manufacturing Corp.
16th Floor UCPB Building Makati Avenue
Makati City

Attention: *AAA*

_____

Gentlemen :

This refers to your letter dated March 22, 2017, with particular citation to your letter dated April 14, 2014, requesting for Tax Exemption Certificate or Ruling in accordance with Revenue Memorandum Circular (RMC) No. 8-2014.

As represented, **GRANEXPORT MANUFACTURING CORPORATION** (**GRANEX**, for brevity) is a PEZA registered Ecozone Export Enterprise with Registration Certificate No. 06-05 dated January 17, 2006 and operating inside Kiwalan, Iligan City. Pursuant to its PEZA registration, GRANEX is entitled to fiscal incentives expressly enumerated in the certification including preferential rate of 5% final tax on gross income (referred to as Gross Income Tax (GIT)) in lieu of payment of all national and local taxes. Given the exemptions, you claimed that GRANEX may now be entitled to a Tax Exempt Certificate or Ruling prescribed under Revenue Memorandum Circular (RMC) No. 8-2014 dated February 6, 2014.

In support of your request, you submitted ***copy*** of the following documents:

1. PEZA Certificate of Registration dated January 17, 2006

2. PEZA Incentive Certificate dated April 26, 2016

3. BIR Certificate of Registration

In reply, please be informed that RMC No. 8-2014 entitled "*Presentation of Tax*

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Exemption Certificate or Ruling by Exempt Individuals and Entities" merely clarified the requirement to present and submit the Tax Exemption Certificate or Ruling by exempt taxpayers for purposes of claiming the exemption from withholding taxes that is supposed to be withheld by the withholding agents, *viz.*:

> *"Pursuant to Sections 57 to 59 and Sections 78 to 83 of the Tax Code, in relation to Revenue Regulations (RR) No. 02-1998, as amended, certain items of income are made subject to the payment of withholding taxes (final tax, creditable/expanded withholding tax, withholding tax on compensation) at the rates prescribed therein.*
>
> *Under the provisions of existing tax laws and administrative issuances, however, some individuals, entities and transactions are considered exempt from imposition of taxes on income and, consequently, from withholding taxes.*
>
> *In this regard, the concerned withholding agents shall require all individuals and entities claiming such exemption to provide a copy of a valid, current and subsisting tax exemption certificate or ruling, as per existing administrative issuances and any issuance that may be issued from time to time, before payment of the related income. The tax exemption certificate or ruling must explicitly recognize the grant of tax exemption, as well as the corresponding exemption from imposition of withholding tax." (Emphasis supplied.)*

RMC No. 8-2014 does not confer right to secure Tax Exemption Certificate or Ruling. It merely requires the presentation and submission of existing Tax Exemption Certificate or Ruling that the taxpayer has to avoid withholding taxes on their income.

It is wise to note that Section 24 of Republic Act (RA) No. 7916, otherwise known as "*The Special Economic Zone Act of 1995*," as amended by Section 4 of RA No. 8748 provides that business establishments operating within the Ecozone shall be exempt from all national and local taxes, and shall in lieu thereof be subject to the 5% preferential tax rate of the gross income earned.

Section 4 of Revenue Regulations (RR) No. 1-2000, dated November 12, 1999, implementing the afore-quoted provision explained the nature and extent of tax exemption as follows:

> *"Section 4. Nature of the 5% Tax and Extent of Tax Exemption. —*
>
> *The above 5% tax is imposed on "gross income earned" hence, income tax in nature and a national internal revenue law in character. Registered Ecozone enterprises shall be exempt from all other taxes, national or local, except the real property tax on land owned by the developers, pursuant to Section 24 of RA No. 7916, as amended by RA*

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No. 8748."

Section 4 of RR No. 1-2000 is consistent with Section 2.57.5 of RR No. 2-98, as amended, which states, to wit:

> *SECTION 2.57.5. Exemption from Withholding. — The withholding of creditable withholding tax prescribed in these Regulations* ***shall not apply*** *to income payments made to the following:*
>
> xxx xxx xxx
>
> *(B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following:*
>
> xxx xxx xxx
>
> *(2) Corporations registered with the Board of Investments and enjoying exemption from the income tax provided by Republic Act No. 7916 and the Omnibus Investment Code of 1987; (emphasis supplied)*

Foregoing considered, since GRANEX is subject to 5% preferential tax on its gross income, which is an income tax in nature, it cannot enjoy exemption from creditable withholding tax under Section 2.57.5 of RR No. 2-98, as amended. Accordingly, payment by clients to GRANEX shall be subject to the appropriate creditable withholding tax.

Please be guided accordingly.

Very truly yours,

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

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