November 16, 2018

BIR RULING NO. 1371-18

Sec. 4, NIRC of 1997; Sec. 2 (t), Rev. Bulletin No. 1-2003; BIR Ruling No. 082-10

AAA

_____

Fleet Management Services Philippines, Inc. Retirement Fund
14/F G.E. Antonino Building,
T.M. Kalaw cor. J. Bocobo Sts., Ermita, Manila

Dear AAA :

This refers to your letter dated May 19, 2016 requesting the opinion and/or authority to invest the Fleet Management Services Philippines, Inc. (FMSPI) Retirement Fund in loan book deposits and lending platforms and other foreign investments especially in tax haven jurisdictions where the fund yields will be greater than local investments.

In reply, please be informed that the matter for opinion is considered an issue based on hypothetical situation where no actual transaction has been made considering that FMSPI Retirement Fund Board of Trustees are still looking into suitable investment alternatives.

Wherefore, this Office cannot issue a definitive ruling or opinion on the above matter because it is considered as a hypothetical situation which falls under the "No-Ruling Area" according to Section 2 (t) of Revenue Bulletin 01-03. *(BIR Ruling No. 082-10 dated October 5, 2010)* The legal opinion or ruling function is limited to the determination of purely legal issues, as opposed to questions of fact or inquiries for speculation purposes.

Furthermore, a grant of authority to invest the FMSPI Retirement Fund in the options you have discussed is beyond the power and authority of the Commissioner of Internal Revenue under Section 4 of the National Internal Revenue Code of 1997, as amended:

> SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

Copyright 2020 CD Technologies Asia, Inc.

> The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.

Be that as it may, we would be glad to assist you, should you request for a ruling in relation to these transactions when they are already executed.

Please be guided accordingly.

Very truly yours,

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

Copyright 2020 CD Technologies Asia, Inc.