January 29, 2019

BIR RULING NO. 140-19

Sec. 184, NIRC; BIR Ruling No. 554-2017

Hon. Erwin D. Sta. Ana
Officer-in-Charge
Bureau of Treasury
Intramuros, Manila

Dear Sir,

This refers to your letter dated October 19, 2018 requesting for a ruling that the insurance policy to be issued by the Government Service Insurance System (GSIS) to the Bureau of Treasury (BTr) is exempt from documentary stamp tax (DST) under the 1997 Tax Code, as amended.

As represented, the 2018 General Appropriations Act (GAA) earmarked PhP2 billion for the insurance of government assets against natural calamities. To utilize this allotment, the 2018 Parametric Insurance Program aims to renew the 2017 Parametric Insurance Program and include the Department of Education's school buildings as part of the assets to be covered. Perils covered by the policy are typhoons and earthquakes for select provinces in the Philippines.

In reply, please be informed that Section 184 of the 1997 Tax Code, as amended, provides:

> *"SEC. 184. Stamp Tax on Policies of Insurance upon Property. — On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the amount of premium charged: Provided, however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded."*

Based on the above-quoted provision, an insurance policy by which insurance is made

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or renewed upon property is subject to DST on the amount of the premium charged. Hence, the insurance policy to be issued by GSIS in favor of the BTr, in the absence of a law expressly exempting said transaction from DST, is subject to the DST imposed under the above provision.

It is noted, however, that the GSIS is a tax-exempt party by virtue of Section 39 of Republic Act (RA) No. 8291, otherwise known as the "Government Service Insurance System Act of 1997," in order to keep the actuarial solvency of the GSIS funds, which are the mandatory contributions of GSIS members and their employers. Relative thereto, Section 173 of the 1997 Tax Code, as amended, provides that whenever one party to the taxable document enjoys exemption from the DST, the other party thereto who is not exempt shall be the one directly liable for the tax. Thus, in the event GSIS is unable to pay the DST because of such exemption, then, the other party who is not exempt and who is in control of the money, in this case the BTr, shall be the one liable for the payment of DST on the subject insurance policy.

It must be emphasized that the exemption from DST found in Section 199 (b) of the 1997 Tax Code, as amended, covers only DST on certified true copies and other certificates placed upon documents, instruments and papers for the national, provincial, city or municipal governments, made at the instance and for the sole use of other branch of government, and does not include DST on insurance policy which is specifically covered by Section 184 of the same Code.

Please be guided accordingly.

Very truly yours,

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

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