December 20, 2018

BIR RULING NO. 1437-18

Section 60 (B) of the National Internal Revenue Code of 1997, as amended; Revenue Memorandum Circular No. 039-2014; BIR Ruling No. 373-2014

AAA
c/o Oikocredit, Ecumenical Development Cooperative Society (EDCS), U.A.
90 Balete Drive Extension
Brgy. Kristong Hari
Quezon City

Madam :

This refers to your letter dated December 07, 2017, requesting for a ruling whether or not the amounts you will receive from the Provident Fund of Oikocredit, Ecumenical Development Cooperative Society (EDCS), U.A. ("Oikocredit" for brevity), is exempt from income tax.

It is represented that on December 31, 2015 at the age of 62, you retired from your work as an employee of Oikocredit after 14 years of service. Oikocredit maintains a Provident Fund wherein all its permanent staff members contribute 7% of their monthly salary to the fund. Oikocredit also contributes a share of 14% for each staff member to the Provident Fund. At the end of employment from Oikocredit, the total contribution of 21% plus interest income becomes available to the staff member when she/he leaves the company, either by retirement, voluntary resignation, or by dismissal. As an option, the employee can leave his/her funds in the Provident Fund for a maximum period of 3 years. This time, you would like to get the accumulated contributions of your Provident Fund. Hence, this request.

In reply, please be informed that as a general rule, Section 60 (A) of the National Internal Revenue Code of 1997, as amended, subjects the income of any kind of property held in trust to income tax. By way of exception, Section 60 (B) of the same Code exempts from income tax an employee's trust which forms part of a pension, stock bonus or profit-sharing plan of an employer for the benefit of some or all of his employees subject to

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the following conditions:

1) Contributions are made to the trust by such employer, or employees, or both for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan; and

2) Under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit of his employees.

As an exception to the above exception, Section 60 (B) of the National Internal Revenue Code of 1997, as amended, subjects to income tax, in the year in which so distributed, any amount actually distributed to any employee or distributee to the extent that it exceeds the amount contributed by such employee or distributee.

From the foregoing, the entire amounts of benefits paid by a pension, stock bonus or profit-sharing plan of an employer for the benefit of employees are taxable on the part of the employees in the year so distributed. This tax treatment, however, does not apply to payouts representing a return of an employee's personal contributions to the fund and to retirement benefits exempt under Section 32 (B) (6) (a) of the National Internal Revenue Code of 1997, as amended.

Thus, the amounts you will receive from the Provident Fund of Oikocredit representing the employer's share and earnings thereon, are subject to income tax on your part in the year so distributed. However, the amounts you will receive representing return of your personal contributions to the fund is exempt under Section 32 (B) (6) (a) of the National Internal Revenue Code of 1997, as amended.

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,

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

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