REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 32(B)(6)(b), 1997 NIRC
BIR Ruling No. 555-2012
BIR Ruling No. 425-2011
BIR Ruling No. 008-2011
#192-2016
5-16-2016

Inbisco Philippines, Inc.
11/F Marco Polo Hotel Ortigas
Sapphire Rd., Ortigas Center
Pasig City

Attention : Ms. Carla San Pedro-Macabagdal
HR Manager

Gentlemen:

This refers to your letter dated September 22, 2015 requesting for the issuance of a certificate of tax exemption on the separation benefits received by employees of Inbisco Philippines, Inc. (Inbisco for brevity), in connection with its redundancy program.

Documents submitted show that Inbisco (TIN) is a corporation organized under and by virtue of Philippine laws. In view of the decrease in the volume of its business transactions arising from various external factors and considering that there is no significant relief in the foreseeable future, Inbisco deemed it wise to shut down its Support and Marketing Department effective September 10, 2015. It will undertake, among other measures appropriate reduction of workforce and termination of employees concerned after paying the proper separation benefits for its affected employees. The following is the list of Inbisco's personnel complement that will be separated from employment:

	Name
1.	ABELLON, Mark Ian Martinez
2.	ATIAN, Rodel Rull
3.	BARRON, Nestor Maano
4.	BRANA, Cecille Joyce Lorenzo
5.	CAJUMBAN, Neil Cabardo
6.	DEL ROSARIO, Joanna Detruz
7.	EDNALINO, Philip Vincent Eclevia
8.	NOVELA, Jerusia Kay Gualiza
9.	OGSIMER, Karl Rocko Chaves
10.	PARANAL, Jhacel Obrero
11.	PINEDA, Jeffrey Lagason
12.	RIVERA, Maria Christina Angelica Talinio
13.	SUMPIO, Joan Mary Pondevida
14.	TANDAS, Michael Frogoso
15.	TIMOSAN, Ryan Liao

the Establishment Termination Report was duly received by the Department of Labor and Employment-NCR (PAPAMAMARISAN Field Office) on July 28, 2015, and the corresponding Notices of Termination to the affected employees are duly received by the aforestated workers.

In reply, please be informed that pursuant to Section 32(B)(6)(b) of the Tax Code of 1997, any amount received by an official or employee or by his heirs from the employer as a

041331

consequence of separation of such official or employee from the service of the employer because of death, sickness or other physical disability or for any cause beyond the control of the said official or employee is exempt from taxes regardless of age or length of service. The phrase "for any cause beyond the control of said official or employee" connotes involuntariness on the part of the official or employee. The separation from the service of the official or employee must not be asked for or initiated by him.

This Office has had several occasions to rule that the above-mentioned law requires the presence of two (2) conditions in order that the employee benefits may be granted tax exemption, namely: (1) the employee is separated from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee; and (2) the employer pays benefits to the official or employee or his heirs as a consequence of such separation. (BIR Ruling No. 008-11 dated 19 January 2011)

In view thereof, this Office is of the opinion that since it appears that the employees of Inbisco, as enumerated herein have proven to have been separated from the service of the employer because of redundancy, a cause beyond the control of said employees, any amount to be received by them as a consequence of said separation is exempt from income tax and consequently from the withholding tax prescribed under Section 79, Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 6-2001 and 12-2001.

Accordingly, no withholding taxes shall be deducted from the separation benefits and the entire amount thereof shall be given to the entitled separated employee. (BIR Ruling No. 425-11 dated November 4, 2011)

Also, pursuant to Section 2.78.1 (A) (7) of RR 2-98, as amended, the terminal pay, i.e., commutation and payment of monetized unused vacation leave credits not exceeding ten (10) days during the year are not subject to income tax and consequently to the withholding tax. Conversely, the cash equivalent of vacation leave exceeding ten (10) days is subject to tax. However, this same principle cannot apply to sick leave credits since an employee must actually go on sick leave to be able to avail of said leave credits. (BIR Ruling No. 425-11 dated November 4, 2011)

It is, however, understood that this exemption does not include the payment of the separated employees' salaries and the payment of the 13th month pay and other benefits in excess of the Php82,000.00[1] threshold under Section 2.78.1 (A)(3)(a) and (A)(7) of RR 2-98, as amended. (BIR Ruling No. 555-12 dated September 6, 2012)

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

041331
MAY 12 2016

K-1
\102(inbisco)

[1] As amended by Revenue Regulations No. 3-2015 dated March 13, 2015