February 28, 2019

BIR RULING NO. 201-19

Sec. 60 (B) NIRC of 1997, as amended;
BIR Ruling No. 076-2012

OWWA Provident Fund, Inc.
OWWA Center Bldg., 7th Floor,
F.B. Harrison Street corner 7th Street,
Pasay City 1300

Attention: *AAA*

Madame :

This refers to your letter dated May 30, 2017 requesting, on behalf of the Overseas Worker's Welfare Administration Provident Fund, Inc. ("OWWA Provident Fund"), for revalidation of its tax-exempt status under BIR Ruling No. DA-146-99 dated March 10, 1999.

It is represented that OWWA Provident Plan (TIN: 000-000-000-000) has been registered as a non-stock and non-profit corporation with the Securities and Exchange Commission (SEC); that it is an employee's loan and benefits plan established by the Overseas Worker's Welfare Administration (OWWA) for the exclusive benefit of its officials and employees; that its primary purpose is to provide benefits or loans to the officials and employees of the Overseas Workers Welfare Administration for their education or that of their children, for their hospitalization or that of their immediate dependents and for minor but immediately needed repair of their houses; [1] that employee-members are to contribute to the Fund a sum equivalent not lower than ten percent (10%) of the total basic salaries of its regular and casual employees and the OWWA shall pay to the Fund its counterpart contribution in an amount equivalent to not be more than two percent [2] (2%) of their basic salaries; [3] and that the earnings accumulated by the Fund shall be distributed to the members in the form of loans and benefits in cases of secession, death, total permanent disability, reorganization or retrenchment/abolition of an employee's membership to the Fund. [4]

In reply thereto, please be informed that Section 60 (B) of the Tax Code of 1997 provides:

> *"Sec. 60 (B). Exception. — The tax imposed by Title II shall not apply to employees' trust which forms part of a pension, stock bonus, or profit-sharing plan of an*

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employer for the benefit of some or all of his employees (1) if 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) if 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. . ."

The above-cited provision lays down the following requirements in order that the earnings of a retirement fund may be exempt from income tax, to wit: 1) the contributions are made to the trust by the employer, or employees, or both; 2) such contributions are made 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 3) under the trust instrument it is impossible (in the taxable year and at any time thereafter prior to the satisfaction of all liabilities with respect to employees under the trust) for any part of the corpus or income to be used for, or diverted to, purposes other than for the exclusive benefit of the employees.

Considering that the above conditions are met by OWWA Provident Fund, its earnings from bank deposits, yield, or any monetary benefit from deposit substitutes, trust funds and similar arrangements, including those from the government securities issued by the Bureau of Treasury, remain exempt from income tax pursuant to Section 60 (B) of the Tax Code of 1997, as amended and, consequently, from withholding tax. It must be emphasized, however, that in its investment activities, no part of the corpus or income of the Fund shall be used for or diverted to purposes other than for the exclusive benefit of the member-employees/officials or their beneficiaries. (BIR Ruling No. 076-2012 dated February 15, 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,

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

Footnotes

1. As stated in the Articles of Incorporation dated December 3, 1992.
2. The employees and the OWWA's share shall be subject to the negotiation with OWWA Board of Trustees and to the rules and regulations of the Department of Budget and Management and the Commission on Audit.
3. Art. III, Sec. 1 of the OWWA Provident Fund Incorporated.
4. Art. IV, Sec. 1 of the OWWA Provident Fund Incorporated.

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