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

Sec. 32(B)(6)(a), Tax Code
BIR Ruling No. 68-14
OT- 0204-2020
MAR 10 2020

MR. MANUEL Q. QUIMPO, JR.

Sir:

This refers to your undated letter received by this Office on December 6, 2019 requesting for re-evaluation and final determination of your case, in connection with BIR Ruling No. 545-2019 issued on October 1, 2019, exempting your retirement benefits from income tax.

It is represented that during the automatic transfer of your employment/payroll from National Transmission Corporation (TransCo) to National Grid Corporation of the Philippines (NGCP) in January 2019, by virtue of the Republic Act (RA) No. 9511 (EPIRA Law), you were not informed of the existence of NGCP Retirement Plan. Thus, you represented to this Office in your request letter dated May 28, 2019 that NGCP does not provide for a retirement plan or other agreement providing for the retirement benefits of its employees. Based on the said representation, this Office ruled in your favor and exempted your retirement benefits pursuant to Section 1 of RA No. 7641. NGCP refused to honor the aforementioned ruling on the ground that NGCP has a retirement plan. NGCP did not exempt from income tax your retirement benefits since it found that your service was four (4) days short of the required length of service.

In reply, please be informed that by express provision of Section 32 (B)(6)(a) of the Tax Code, as amended, the retirement benefits of employees who meet the age and service requirement in accordance with a reasonable retirement benefit plan maintained by the employer shall be exempt from withholding tax, *viz*:

"(a) Retirement benefits received under R.A. 7641 and those received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer: Provided, that the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty (50) years of age at the time of his retirement: . . ., shall not be included in gross income and shall be exempt from taxation."

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The above-cited provision provides for the minimum requirements in order for the retirement benefits to be exempt from income tax and consequently, to the withholding tax, i.e., length of service of at least 10 years and 50 years of age at the time of retirement. NGCP computed your retirement benefits according to the NGCP Retirement Plan. Under the said plan, your retirement benefits shall not be exempt from income tax and withholding tax since your service is four (4) days short of the ten (10) year service requirement in accordance with Section 32 (B)(6)(a) of the Tax Code of 1997, as amended. The computation of your years of service is a question that is within the jurisdiction of the Department of Labor and Employment (DOLE) to resolve, therefore, your recourse is with the DOLE.

It appearing that the facts as stated in your request letter dated May 28, 2019 are different, BIR Ruling No. 545-2019 dated October 1, 2019 is hereby considered null and void.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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