June 6, 2019

BIR RULING NO. 346-19

Sections 98 and 101 of the Tax Code of 1997,
as amended; BIR Ruling No. 120-16

Isla Lipana & Co.
29th Floor, Philamlife Tower
8767 Paseo de Roxas

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 16, 2018 requesting for clarification on the taxability of the grants/subsidies and donations received by the German-Philippine Chamber of Commerce and Industry, Inc. ("GPCCI"), a non-stock, non-profit association.

It is represented that GPCCI was issued Certificate of Tax Exemption (CTE) No. 230-2018 dated February 20, 2018 exempting from income tax its revenues from contributions, membership fees and annual dues. It was noted, however, that funds from sponsorships, subsidies and grants from Germany and those received from its publications were not included in the list of sources of funds exempt from income tax. A clarification is now being sought on whether or not said revenues are also exempt from income tax under Section 30 (F) of the National Internal Revenue Code of 1997 (NIRC), as amended.

In reply, please be informed that Section 98 of the NIRC, as amended, provides that transfers by any person, resident or nonresident, by gift, of property, real or personal, are generally subject to donor's tax. The aforesaid Section reads:

"*CHAPTER II — DONOR'S TAX*

SEC. 98. Imposition of Tax. —

(A) there shall be levied, assessed, collected and paid upon the transfer by any person, resident or nonresident, of the property by gift, a tax, computed as provided in Section 99.

Copyright 2020 CD Technologies Asia, Inc.

(B) the tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible.

xxx xxx xxx"

However, certain transfers are exempt from donor's tax such as the donations made by residents and non-residents to entities enumerated under Section 101 of the NIRC, as amended, *viz.*:

"*SEC. 101.* [1] *Exemption of Certain Gifts. — The following gifts or donation shall be exempt from the tax provided for in this Chapter:*

(A) In the Case of Gifts Made by a Resident. —

(1) x x x;

(2) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, foundation, trust or philanthropic organization or research institution or organization: Provided, however, That not more than thirty percent (30%) of said gifts shall be used by such donee for administration purposes."

xxx xxx xxx

(B) In the Case of Gifts Made by a Nonresident not a Citizen of the Philippines. —

(1) x x x;

(2) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, foundation, trust or philanthropic organization or research institution or organization. Provided, however, That, not more than thirty percent (30%) of said gifts shall be used by such donee for administration purposes."

xxx xxx xxx"

It is clear from the foregoing that transfers by gift, of property, real or personal, are generally subject to donor's tax. Please note that grants/subsidies and donations made to the GPCCI fall under the above provisions and, therefore, subject to donor's tax. Although GPCCI is a non-stock, non-profit association, it is not one of the above-enumerated institutions or organizations whose gifts received are exempt from donor's tax.

In view of the foregoing, this Office is of the opinion as it hereby holds that while grants/subsidies and donations received by GPCCI are exempt from income tax under

Copyright 2020 CD Technologies Asia, Inc.

Section 30 (F) of the NIRC, as amended, the same are subject to donor's tax on the part of the donors under Section 98 of the same Code.

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 amended by Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion Law (TRAIN).

Copyright 2020 CD Technologies Asia, Inc.