November 8, 2016

BIR RULING NO. 373-16

Sec. 32 (B) (7) (a); BIR Ruling No. 109-12; BIR Ruling No. 449-12; BIR Ruling No. 495-12

R.G. Manabat & Co.
The KPMG Center, 9/F
6787 Ayala Avenue
Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 7, 2015 requesting on behalf of your client, **BANK NEGARA MALAYSIA** ("BNM" for brevity) for confirmation of your opinion that the income derived by BNM from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks, and capital gains on sale of shares of stock, bonds, and other domestic securities in the Philippines is exempt from income tax, and withholding taxes, pursuant to Section 32 (B) (7) (a) of the National Internal Revenue Code of 1997 (NIRC), as amended.

It is represented that BNM is the Central Bank of Malaysia, established on January 26, 1959 under the Central Bank of Malaysia Act 1958 (CBA 1958), which has been repealed and replaced by the Central Bank of Malaysia Act 2009 (CBA 2009). By virtue of its establishment, it is a statutory body owned by the Government of Malaysia. BNM keeps the Minister of Finance of Malaysia informed on matters pertaining to monetary and financial stability. One of the important roles of BNM is to promote monetary and financial stability conducive to the sustainable growth of the Malaysian economy. Being a banker and adviser to the Government of Malaysia, BNM provides advice on macroeconomic policies and the management of public debt. It is also the sole authority in issuing currency as well as managing the country's international reserves.

As such, BNM has made several investments in the Philippines. These include

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investments in government securities in the form of treasury bills and bonds, bank deposits, as well as equity investments in various Philippine corporations.

Based on the foregoing, you now request for confirmation that income received by BNM from its investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks, in the Philippines is exempt from income tax as contemplated by Section 32 (B) (7) (a) of the Tax Code, and consequently, exempt from Philippine withholding tax.

In support of this request, the following documents were submitted:

1. Duly notarized and authenticated Special Power of Attorney (SPA) executed by BNM authorizing R.G. Manabat & Co. (KPMG in the Philippines) to file the request for ruling;

2. Duly notarized certified true copy of the Central Bank Act of Malaysia 2009 as certified by the Authentication Officer duly authorized to legalize the aforesaid document in the Ministry of Foreign Affairs (Consular Division), Malaysia and authenticated by the Consul of the Philippine Embassy in Malaysia; and

3. Duly notarized and authenticated certification from the Deputy Undersecretary of Tax Analysis Division for the Secretary General of the Treasury, Ministry of Finance Malaysia, certifying that BNM is a statutory body owned by the Government of Malaysia.

In reply, please be informed that Section 32 (B) (7) (a) of the NIRC provides that income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) financial institutions owned, controlled, or enjoying refinancing from foreign governments, and (iii) international or regional financial institutions established by foreign governments shall not be included in gross income and shall be exempt from taxation.

In BIR Ruling No. 109-12 dated February 22, 2012, this Office had the occasion to rule that:

> ". . . . any income received by BNM from its investment in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks, and capital gains on sale of shares of stock, bonds, and other domestic securities in the Philippines are exempt from Philippine income tax and consequently from withholding tax subject to the condition that BANK NEGARA MALAYSIA remains as a financial

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institution owned, controlled and financed by the Government of Malaysia."

Accordingly, any income received by BNM from its investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks, and capital gains on sale of shares of stock, bonds, and other domestic securities in the Philippines are exempt from Philippine income tax and consequently from withholding tax subject to the condition that BANK NEGARA MALAYSIA remains as a financial institution owned, controlled and financed by the Government of Malaysia. *(BIR Ruling Nos. 109-12 dated February 22, 2012, 449-12 dated July 10, 2012 and 495-12 dated July 31, 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

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