December 2, 2016

BIR RULING NO. 415-16

Sec. 5, RA 8367; RR No. 13-2004, 9-2000, 9-2004; RMC No. 9-2016; BIR Ruling No. 302-14

Fernando Air Base Savings and Loan Association, Inc.
Fernando Air Base
Lipa City, Batangas

Attention: *AAA*

Gentlemen :

This refers to your letter dated 2 January 2013 requesting for revalidation of the certificate of exemption from the twenty percent (20%) final withholding tax on the interest income derived from its deposits and deposit substitutes pursuant to Republic Act (RA) No. 8367, entitled: "An Act Providing for the Regulation of the Organization and Operation of Non-Stock Savings and Loan Associations."

It is represented that FERNANDO AIR BASE SAVINGS AND LOAN ASSOCIATION, INC. (FABSLAI) (TIN: 000-000-000-000) is registered with the Securities and Exchange Commission (SEC) under Registration No. ANO91-192842; that a Certificate of Authority No. C-004 was issued by the Central Bank of the Philippines (now Bangko Sentral ng Pilipinas [BSP]) on September 8, 1965 in favor of FABSLAI; that Bureau of Internal Revenue (BIR) Ruling No. DA-714-99 dated December 28, 1999 was issued exempting it from payment of withholding tax on interest income; and that the said exemption has been continuously enjoyed by FABSLAI, however, sometime in 2004, FABSLAI was informed by the bank that unless an updated BIR Ruling on the exemption of the association is presented, the exemption from withholding on its interest income can no longer be enjoyed.

You are now requesting from this Office for revalidation of BIR Ruling No. DA-714-99 dated December 28, 1999 that was previously issued to FABSLAI.

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In reply, please be informed that Section 5 of RA No. 8367 provides *viz.*:

> *"SECTION 5. Tax Exemption. — An Association shall be exempt from payment of tax in respect to income it receives, including interest on its deposits with any bank; Provided, however, That income derived from any of its properties, real or personal, or any activity conducted for profit, regardless of the disposition thereof, is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code.*
>
> *Interest earnings on deposits of members with Associations, as well as the shares of its members from the net income of the Associations shall be exempt from income tax."*

Based on the foregoing, FABSLAI shall be exempt from income tax with respect to income it receives, including interest income derived by FABSLAI from its deposit and deposit substitutes are exempt from twenty percent (20%) final withholding tax. (BIR Ruling No. 302-14 dated July 24, 2014)

However, any disposition made by FABSLAI of its properties (real or personal) is subject to applicable income tax depending on the classification of its properties either capital or ordinary assets.

Moreover, Section 4 of Revenue Regulations (RR) No. 9-2004, as amended, implementing Section 122 of the National Internal Revenue Code (NIRC) of 1997, as amended, as further clarified in Revenue Memorandum Circular (RMC) No. 9-2016, provides for the imposition of Gross Receipts Tax (GRT) on Non-Bank Financial Intermediaries (NBFIs), thus FABSLAI is subject to GRT on income derived from its operations.

As provided under Section 5 of RA No. 8367, FABSLAI is only exempt from income tax. Thus, FABSLAI as NBFIs are subject to Documentary Stamp Tax (DST) under the provisions of RR No. 13-2004 implementing Title VII of the NIRC, as amended, particularly on loan agreements, mortgages, pledges, foreclosures and sales, among others.

Lastly, pursuant to RR No. 9-2000, if FABSLAI is one of the parties to a taxable transaction, FABSLAI shall be responsible for the remittance of DST due regardless of who will bear the burden of paying the DST.

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.

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Very truly yours,

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

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