December 9, 2019

BIR RULING NO. 777-19

Section 32 of the NIRC of 1997, as amended;
000-00

Cochingyan & Peralta Law Offices
Twelfth Floor, 139 Valero St.
Salcedo Village, Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 21, 2008, in behalf of your client, Clariant (Philippines) Corporation, requesting confirmation that the return of capital is not income and not subject to income tax, as it merely involves repatriation of part of the capital given by Clariant International to Clariant (Philippines) Corporation.

It is represented that Clariant (Philippines) Corporation with Taxpayer's Identification No. 000-000-000-000 is a domestic corporation, wholly-owned subsidiary of Clariant (International) Corporation, a non-resident foreign corporation established under the laws of Switzerland. As a corporation primarily engaged in the trade of goods it has an authorized and outstanding capital stock of P_____ divided into 1,200,000 common shares at P_____ par value. The paid-in capital of Clariant (Philippines) Corporation was P_____, with Clariant (International) Corporation subscribing to 661,993 shares amounting to P_____.

On April 21, 2008, the Board of Directors of Clariant (Philippines) Corporation, passed a resolution, which was subsequently approved by the shareholders, reducing the authorized capital stock of the corporation from P_____ divided into 1,200,000 common shares at P_____ par value to P_____ divided into 640,000 common shares at P_____ par value; that Clariant (Philippines) Corporation also approved the return of its excess paid-in capital, amounting to P_____ to its principal shareholder, Clariant (International) Corporation, of this amount P_____ was paid by Clariant (Philippines) Corporation in November 2008 and the remaining P_____ was paid in June 2009. As a

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result, the paid-in capital of Clariant (Philippines) Corporation was decreased from P_____ to P_____.

Moreover, on March 9, 2010, the Board of Directors and Shareholders resolved to further decrease its authorized stock from P_____ divided into 640,000 common shares at P1_____ par value to P_____ divided into 380,000 common shares at P_____ par value; that Clariant (Philippines) Corporation also approved the return of its excess paid-in capital, amounting to P_____ to its principal shareholder, Clariant (International) Corporation representing 66,998 issued and outstanding shares. As a result, the paid-in capital of Clariant (Philippines) Corporation was decreased from P_____ to P_____.

On September 6, 2010, the SEC approved the decrease of the authorized capital stock from P_____ divided into 640,000 common shares at P_____ par value to P_____ divided into 380,000 common shares at P_____ par value of the Clariant (Philippines) Corporation.

In reply, please be informed that Section 36 of Revenue Regulations No. 2 otherwise known as the Income Tax Regulations provides that income, in the broad sense, means all wealth which flows into the taxpayer other than as a mere return of capital. The return of capital is not subject to income tax.

Accordingly, the amounts of P_____ and P_____ representing the reduced capital to be repatriated to Clariant (International) Corporation are not subject to income tax since the same constitutes a return of capital or principal and not income as the term is defined under Section 32 of the Tax Code of 1997.

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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