May 15, 2018

BIR RULING NO. 817-18

E.O. 226; Secs. 57 (B); 106 (A) (1) (a);
196 NIRC; BIR Ruling No. 333-2014

Royal Dragon Ocean Transport, Inc.
McArthur Highway
Udiao Rosario, La Union

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 2, 2013 requesting, on behalf of **Royal Dragon Ocean Transport, Inc. ("Royal Dragon")**, certificate of tax exemption from income and expanded withholding taxes on account of its registration with the Board of Investments (BOI) under Executive Order No. 226, otherwise known as the "Omnibus Investments Code of 1987."

Documents submitted show that **Royal Dragon**, with Tax Identification No. (TIN) 000-000-000-000, is a domestic corporation duly organized under the Philippine laws; that the Corporation is registered with the Securities and Exchange Commission (SEC) bearing SEC Certificate of Registration No. CS201018001; that the primary purpose for which it was incorporated is to engage in the business of operating domestic/inter-island shipping vessels within the Philippine waters; that it is registered with the Board of Investments per Certificate of Registration No. 2012-236 dated November 13, 2012 as a new operator of Ten (10) Units of Domestic/Inter-Island Shipping (Landing Craft Transport Vessels) on a pioneer status under the Omnibus Investments Code of 1987 (E.O. 226); that **Royal Dragon** shall be entitled to income tax holiday (ITH) for the said registered activity for a period of six (6) years beginning from November 2012 or actual start of commercial operations/selling, whichever is earlier, but in no case earlier than the date of registration; and that the ITH of **Royal Dragon** shall be limited only to the revenue generated from its registered activity as **New Operator** of **Ten (10) Units of Domestic/Inter-Island Shipping (Landing Craft Transport Vessels)**.

Royal Dragon, under the Specific Terms and Conditions of its BOI Registration for the above registered activity, shall observe the following sales revenues:

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Year	1	2	3	4	5
No. of months per year	10	10	10	10	10
Monthly Charge per Vessel	_____	_____	_____	_____	_____
Yearly Charge per Vessel	_____	_____	_____	_____	_____
No. of LCT vessel	10	10	10	10	10
Total revenues (Php)	_____	_____	_____	_____	_____

The income qualified for ITH availment shall not exceed by more than ten percent (10%) of the projected income represented by **Royal Dragon** in its application with the BOI.

In reply, please be informed that under Section 2.57.5 (B) (2) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 6-2001 implementing Section 57 (B) of the Tax Code of 1997, as amended, the withholding tax prescribed in the said Regulations shall not apply to income payments to persons enjoying exemption from the income tax provided by Republic Act No. 7916 and the Omnibus Investments Code of 1987. *(BIR Ruling No. 333-2014 dated August 15, 2014)*

Accordingly, since **Royal Dragon's** operation of **Ten (10) Units of Domestic/Inter-Island Shipping (Landing Craft Transport Vessels)**, is a BOI registered activity, this Office is of the opinion as it hereby holds, that income payments received by **Royal Dragon** directly in connection with the operation of the said activity, are exempt from the creditable withholding tax imposed under RR No. 2-98, as amended by RR No. 6-2001, for a period of six (6) years beginning from November 2012 or actual start of commercial operations/selling, whichever is earlier, but in no case earlier than the date of registration.

It must be emphasized that the above exemption from the creditable withholding tax covers only the revenues directly generated from **Royal Dragon's** operation of its registered activity, **New Operator of Ten (10) Units of Domestic/Inter-Island Shipping (Landing Craft Transport Vessels)**. Moreover, **Royal Dragon's** entitlement to ITH for the aforesaid registered activity is not automatic as it has still to comply with the conditions set forth under the Specific Terms and Conditions of its BOI Registration.

Pursuant to Section 4 of Republic Act (RA) No. 10708, [1] **Royal Dragon** is required to file its tax returns and pay its tax liabilities, on or before the deadline as provided under the 1997 Tax Code, as amended, using the electronic system for filing and payment of taxes of the BIR. Furthermore, **Royal Dragon** shall file with BOI a complete annual tax incentives report of its income-based tax incentives, VAT and duty exemptions, deductions, credits or exclusions from the tax base, as may be provided under E.O. 226, within thirty (30) days from the deadline for filing of tax returns and

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payment of taxes.

It should be understood that **Royal Dragon** shall be constituted as a withholding agent for the government if it acts as employer and any of its employees received compensation income subject to compensation withholding tax, or if it makes payments to individuals or corporations subject to the withholding taxes at source as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended and implemented by *Revenue Regulations (RR) No. 2-98*, as amended.

Likewise, **Royal Dragon** is required to file on or before the 15th day of the fourth month following the close of its accounting period of a Profit and Loss Statement and Balance Sheet with the Annual Information Return under oath, stating its gross income and expenses incurred during the taxable year.

Finally, the **Royal Dragon's** books of accounts and other pertinent records shall be subject to periodic examination by revenue enforcement officers of this Bureau for the purpose of ascertaining whether it has been complying with the conditions under which it has been granted tax exemption or tax incentives and tax liability, if any, pursuant to Section 235 of the Tax Code of 1997, as amended.

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. An Act Enhancing Transparency in the Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies.

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