REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 32(B)(6)(b), 1997 NIRC
BIR Ruling No. 479-2014 BIR Ruling No. 416- 2012
#006-2018
1-10-2018

Multi-Line Ventures Corporation
F8, J. King Warehouse, Sitio Orel
Banilad, Mandaue City

Attention : Mr. Aurelio O. Angeles
President

Gentlemen:

This refers to your letter dated January 23, 2016 requesting for certificate of tax exemption on the separation pay of its employees to be terminated by reason of closure as a result of continuous business losses.

It is represented that Multi-Line Ventures Corporation (MLVC) is a corporation duly organized and existing under the laws of the Philippines. It is principally engaged in the business of trading/contracting of architectural products. MLVC has a business office and warehouse located at 1620 Herman Cortes St., Banilad, Mandaue City (TIN [redacted]). It also has an office situated at Km. 6, Purok 47, Ma-a Road, Roldan Village, Davao City (TIN [redacted]). In a Special Meeting of the Board of Directors of MLVC on December 4, 2015, through Board Resolution No. [redacted], the latter resolved that the Mandaue office and warehouse be closed due to business losses and that there be absolute termination of its operations effective December 31, 2015. In the same way, through Board Resolution No. [redacted], the said Board decided that the Davao office of MLVC be likewise closed due to business losses and that there be cessation of operations of the establishment on December 31, 2015. MLVC management needed to lay-off a total of forty-five (45) employees, as follows:

Name	TIN
1. Lepatan, Nina	[redacted]
2. Veloso, Maribel	[redacted]
3. Conato, Kristina	[redacted]
4. Dacles, Leonora	[redacted]
5. Pangan, Ryan	[redacted]
6. Zamora, Mary Grace	[redacted]
7. Adlawan, Roberto	[redacted]
8. Vente, Ralfie	[redacted]
9. Fat, Rolly	[redacted]
10. Novo, JhunLimar	[redacted]
11. Potane, Maricris	[redacted]
12. Ligaray, Vanessa	[redacted]
13. Lovitos, Negen	[redacted]
14. Buni, Jaymar	[redacted]
15. Playda, Ken Jones	[redacted]
16. Colon, Janet	[redacted]
17. Arana, Crisanto	[redacted]
18. Balane, Allan	[redacted]

19. Simbajon, Mark Joseph	
20. Santiago, Shiena	
21. Casilac, Jake	
22. Marquez, Emmanuel	
23. Dela Cruz, Paul Vincent	
24. Solangoy, Calixto C. Jr.	
25. Lopez, Keith R.	
26. Enghog, Eleazar E.	
27. Lantaya, Larry T.	
28. Salang, Flordelitz	
29. Florenosos, Mae R.	
30. Fernandez, Joanna Rheasle	
31. Dipelo, Leah	
32. Navarez, Ronald	
33. Ballen, Romillo	
34. Bartolome, Gladen	
35. Esteban, Christine	
36. Ligan, Charlie	
37. Dubria, Joanne	
38. Zurita, Maria Lea	
39. Inutan, Jean Kristie	
40. Del-is, Myrna Lynn	
41. Baylon, Danilo Jr.	
42. Hernaez, Connie	
43. Samon, Daryl	
44. Pequit, Katrina	
45. Felipe, Cristyl	

In reply, please be informed that pursuant to Section 32(B)(6)(b) of the Tax Code of 1997, as amended, any amount received by an official or employee or by his heirs from the employer as a consequence of separation of such official or employee from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee shall not be included in the gross income and shall be exempt from taxation under Title II of the same Tax Code. (BIR Ruling No. 416-2012 dated June 25, 2012)

The above-mentioned law requires the presence of two (2) conditions in order that the employee benefits may be granted tax exemption, namely: (1) the employee is separated from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee, and (2) the employer pays benefits to the official or employee or his heirs as a consequence of such separation.

Submitted documents show that MLVC has already informed the Department of Labor and Employment (DOLE-Region 7, Cebu City and DOLE-Regional Office XI, Davao City) thru Establishment Termination Reports stating that the afore-mentioned employees have been separated from employment due to the company's financial losses and that the said workers have been duly notified of their termination before the announced closure of MLVC.

Accordingly, the separation pay to be received by the above-named employees as a result of their separation from the service is exempt from income tax and consequently from the withholding tax prescribed by Section 79 of the 1997 Tax Code, as implemented by Revenue Regulations (RR) No. 2-98, as amended by RR Nos. 6-2001 and 12-2001.

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Moreover, pursuant to Section 2.78.1 (A)(7) of RR 2-98, as amended, the terminal pay, i.e., commutation and payment of monetized unused vacation leave credits not exceeding ten (10) days during the year are not subject to income tax and consequently to the withholding tax. Conversely, the cash equivalent of vacation leave exceeding ten (10) days is subject to tax. However, this same principle cannot apply to sick leave credits since an employee must actually go on sick leave to be able to avail of said leave credits.

It is, however, understood that this exemption does not include the payment of the separated employees' salaries and the payment of the 13th month pay and other benefits in excess of the Php threshold under Section 2.78.1 (A)(3)(a) and (A)(7) of RR 2-98, as amended. (BIR Ruling Nos. 479-2014 dated December 3, 2014 and 416-2012 dated June 25, 2012)

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] As amended by Revenue Regulations No. 3-2015 dated March 13, 2015