REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Sec. 32 (B)(6)(a), Tax Code
BIR Ruling No. OT-416-20
OT-413-2022
OCT 11 2022

OTSUKA (PHILIPPINES) PHARMACEUTICAL, INC.
3/F King's Court II Building, 2129 Chino Roces Avenue
Makati City 1231

Attention: **Mr. Jose Jacinto M. Aquino**
Finance Director

Gentlemen:

This refers to your request for tax exemption on the retirement benefits to be received by your separated employee.

Documents submitted disclose that **Otsuka (Philippines) Pharmaceutical, Inc. ("Otsuka")** maintains a retirement benefit plan ("the Plan") which is certified by the Bureau of Internal Revenue as a reasonable retirement benefit plan under BIR Ruling No. ERP-043-2016 dated May 31, 2016. The Plan provides for normal retirement on the member's sixtieth (60th) birthday and after rendering at least five (5) years of credited service with the Company.

On the other hand, MS. MARIA LUISA C. JOSE ("Ms. Jose") is a former employee employed by Otsuka as HR Manager for fifteen (15) years beginning May 16, 2007 to June 30, 2022. She is sixty (60) years old at the time of her retirement.

In reply, please be informed that based on Section 32 (B)(6)(a) of the National Internal Revenue Code (Tax Code) of 1997, as amended, if the company maintains a private retirement plan which have been determined by the Bureau of Internal Revenue (BIR) as a "reasonable retirement benefit plan," the retirement benefits that will be received by the employees shall be exempt from income tax, provided that the two (2) conditions are met, *viz*: (1) the employee had been in the service of the same private firm for at least ten (10) years; and (2) he is at least fifty (50) years old at the time of retirement.

Section 32 (B)(6)(a) of the Tax Code of 1997, as amended, provides merely for the minimum requirements in order for the retirement benefits to be exempt from income tax and consequently from withholding tax, i.e., length of service of at least 10 years and 50 years of age at the time of retirement. However, the retirement benefit plan of the company may provide for more than 10 years of service and more than 50 years of age.

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It is noted that under Section 1, Article IV of the Plan, an employee is entitled to retirement pay upon reaching the age of sixty (60) and after rendition of five (5) years of service in the Company. In such cases, the retirement benefits received under the aforesaid provision of the Plan shall only be exempt from income tax if the two conditions provided under Section 32 (B)(6)(a) of the Tax Code of 1997, as amended, are both present, to wit: (1) the employee had been in the service of Otsuka for at least ten (10) years; and (2) he is at least fifty (50) years old at the time of retirement.

Applying the foregoing in the instant case, it is shown that Ms. Jose was able to comply with the two (2) conditions above. She has rendered fifteen (15) years of service in the company and is sixty (60) years old at the time of her retirement. Thus, the retirement benefits which she shall receive from Otsuka shall be exempt from income tax, and consequently, from withholding tax, pursuant to Section 32 (B)(6)(a) of the Tax Code of 1997, as amended, provided that the benefits granted shall be availed of by Ms. Jose only once.

It must be understood that the payment to Ms. Jose of her salaries and the payment of the 13th month pay and other benefits in excess of the PhP90,000.00 threshold shall be subject to income tax, and consequently to withholding tax, under Sections 2.78.1 (A)(3)(a) and (A)(7) of RR No. 2-98, as amended.

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 null and void.

Very truly yours,

Lili C. Guillermo

LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue

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