REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 32 (B)(6)(a), Tax Code
BIR Ruling No. 1336-18
CT-430-2021
DEC 24 ...

EUROTILES INDUSTRIAL CORPORATION
Unit 201 Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, Pasig City

Attention: **Ms. Gingin R. Plandez**
HR Assistant

Gentlemen:

This refers to your request for a ruling that the retirement benefits to be received by your retiring employee, **MR. DICKSON M. ZURBANO** ("Mr. Zurbano") are exempt from withholding tax.

As represented, Eurotiles Industrial Corporation ("Eurotiles"), is a domestic corporation duly organized and existing under the laws of the Philippines. Eurotiles does not maintain a company policy or qualified retirement benefit plan duly approved by the Bureau of Internal Revenue. Mr. Zurbano, with Taxpayer Identification No. , was an employee of Eurotiles for the period June 6, 1994 to January 2, 2020. He was sixty-one (61) years old at the time of his retirement.

In reply, please be informed that Section 32 (B) (6) (a) of the National Internal Revenue Code of 1997 (Tax Code), as amended, states:

"Section 32. Gross Income. —

x x x x x x x x x

(B) Exclusions from Gross Income. — The following items shall not be included in gross income and shall be exempt from taxation under this Title:

CT- [illegible]
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x x x   x x x   x x x

(6) Retirement Benefits, Pensions, Gratuities, etc. —

(a) Retirement benefits received under Republic Act No. 7641 and those received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer: Provided, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty (50) years of age at the time of his retirement: . . ."

Section 1 of Republic Act (RA) No. 7641, amending the Labor Code of the Philippines, prescribes that:

"Section 1. Article 287 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, is hereby amended to read as follows:

> *Art. 287. Retirement. — Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.*
>
> *In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided, however, that an employee's retirement under any collective bargaining and other agreements shall not be less than those provided herein.*
>
> *In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) which is declared the compulsory retirement age, who has served at least five (5) years in the establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one (1) whole year."* (Underscoring supplied.)

In view of the foregoing provisions, retirement benefits received by an employee shall be exempt from income tax, provided the two (2) conditions set forth under Section 1 of RA No. 7641 are met, viz:

1) the employee had been in the service of the same private firm for at least five (5) years; and

2) he is at least sixty (60) years old at the time of retirement.

Considering that Eurotiles does not maintain a "reasonable private benefit plan" duly approved by the Bureau of Internal Revenue, the provisions of RA No. 7641 shall apply. Since Mr. Zurbano was sixty-one (61) years old at the time of his retirement; and has served Eurotiles for at least twenty-six (26) years, his retirement benefits shall be exempt from income tax, and consequently, from withholding tax, pursuant to Section 32 (B) (6) (a) of the Tax Code, 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,

CAESAR R. DULAY
Commissioner of Internal Revenue
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