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

Section 23 (F), 42 (A) (3) and 108 of the National Internal Revenue Code of 1997, as amended;
BIR Ruling No. OT-06-2020
OT- 356-2022
JUL 28 2022

Online Loans Pilipinas Financing, Inc.
1402-1406 Tycoon Center
Pearl Drive San Antonio
Pasig City

Attention: **Adrian Paulo B. Roco**
President

Marian I. Abarquez
Chief Financial Officer

Gentlemen:

This refers to your letter request for a confirmatory ruling on the exemption of **Online Loans Pilipinas Financing, Inc.** ("OLP") from the payment of withholding tax on payments for services rendered abroad in favor of **eCloudvalley Technology (HK) Limited** ("eCloudvalley"), a non-resident foreign corporation (NRFC).

It is represented that OLP is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines and offers financial services such as loans through the internet via web and mobile applications.

eCloudvalley, on the other hand, is a NRFC registered under the laws of Hongkong. As stated in the NRFC's Apostilled Business Registration Certificate, it is engaged in the business of consultancy and trading. Also, eCloudvalley is not registered as a corporation, partnership or one person corporation in the Philippines per its Certificate of Non-Registration from the Securities and Exchange Commission

On January 28, 2019, the above-mentioned corporations entered into an "Amazon Web Services" Services Agreement. Under the said agreement, eCloudvalley - which is a reseller and solution provider of Amazon Web Services, Inc ("AWS Company") - will provide a comprehensive suite of services and solutions to run sophisticated and scalable applications in order to help OLP achieve better run on AWS. For this purpose, OLP shall make a monthly payment to eCloudvalley for the use of the AWS subject to the terms and conditions in the Services Agreement.

It is further represented, that all of the services of eCloudvalley are performed in its office in Wanchai, Hongkong.

In this regard, you would like to confirm that the payment of service fees of OLP to eCloudvalley is not subject to withholding tax.

In reply, please be informed that Section ***23(F) of the National Internal Revenue Code of 1997 (Tax Code), as amended,*** states that a foreign corporation like eCloudvalley, whether or not engaged in the trade or business in the Philippines, is subject to income tax only with respect to income derived from sources in the Philippines.

Concerning income from the provision of services, under ***Section 42 (A)(3) of the Tax Code, as amended,*** this is considered derived in the Philippines only if the services are actually preformed in the Philippines, to wit:

> *"SEC. 42. Income from Sources Within the Philippines. -*
>
> *(A) Gross Income from Sources Within the Philippines. - The following items of gross income shall be treated as* ***gross income from sources within the Philippines****:*
>
> *xxx xxx xxx*
>
> *(3) Services. -* ***Compensation for labor or personal services performed in the Philippines;****" (Underscoring and emphasis ours)*

Accordingly, since eCloudvalley performed the services in Hongkong the service fees paid by OLP to eCloudvalley for these services shall be exempt from income tax pursuant to the aforequoted provisions[1].

With respect to value-added tax (VAT), ***Section 108(A) of the Tax Code, as amended,*** provides that payments for the sale or exchange of services, including the use or lease of properties are subject to VAT only if the services are performed in the Philippines, to wit:

> *"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. -*
>
> *(A) Rate and Base of Tax. - There shall be levied, assessed and collected, a value-added tax equivalent to twelve percent (12%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.*
>
> ***The phrase "sale or exchange of services" means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration****..." (Underscoring and emphasis ours)*

[1] BIR Ruling No. OT-006-20, dated January 20. 2020

Considering that the services performed by eCloudvalley are outside the Philippines, the service fees paid therefor by OLP to the former are likewise exempt from VAT[2].

In view of the foregoing exemptions from income tax and VAT, the payment of service fees of OLP to eCloudvalley are not subject to withholding tax.

This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

Lilia C. Guillermo

LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue
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[2] BIR Ruling No. OT-006-20, dated January 20. 2020