REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Section 32(B)(6)(a), Tax Code, as amended
BIR Ruling No. 1331-2018
OT- 407-2022
OCT 07 2022

SYCIP GORRES VELAYO & CO.
6760 Ayala Avenue
1226 Makati City

Attention: **Atty. Stephanie G. Vicente-Nava**
Principal, Indirect Tax

Gentlemen:

This refers to your request on behalf of your client, **ISUZU MANUFACTURING COPORATION ("IAMC" or "the Company")** for confirmation that the retirement benefits of its employee, MR. RANULFO C. CALAPRE ("Mr. Calapre") in accordance with its retirement plan is exempt from income tax.

Background

1. IAMC is a domestic corporation primarily engaged in the business of manufacturing and distribution of motor vehicle parts and transactions.

2. IAMC Executive Retirement Policy ("Retirement Plan") effective on June 16, 2020 covers employees of regular status including managers, deputy general managers and general managers, with the objective of setting out employees' entitlements by reason of retirement.

3. Its retirement plan states that the retirement benefits to be received by a retiring employee shall be a sum equal to 250% of his monthly basic pay for every year of credited service provided that: (1) he has served the Company for at least twenty (20) years; and (2) is sixty (60) years old at the time of retirement.

4. On January 22, 2021, IAMC's general manager, Mr. Calapre retired at the age of sixty (60) after twenty-three (23) years of service.

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 has 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. However, even if the company maintains a retirement plan but was not approved by the BIR as a "reasonable retirement benefit plan," the provisions of Republic Act (RA) No. 7641 shall apply as to the length of service and age requirements are concerned.

Under Section 1 of RA No. 7641, in the absence of a reasonable retirement benefit plan providing for retirement benefits of employees in the establishment, 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 for at least five (5) years; and (2) he is at least sixty (60) years old but not beyond sixty-five (65) years old at the time of retirement.

Considering that IAMC has no retirement plan duly approved by the BIR, its employees may retire under RA No. 7641 upon reaching the age of sixty (60) years or more but not beyond sixty-five (65) years which is declared as the compulsory retirement age and after serving at least 5 years in the establishment.

Accordingly, the retirement benefits of Mr. Calapre who has retired from the service after reaching the age of sixty (60) and rendered more than five (5) years of service shall be exempt from income tax and consequently from withholding tax prescribed under Section 79, Chapter XIII, Title II of the Tax Code of 1997, as amended.

Please take note also that pursuant to Section 2.78.1 (A) (7) of Revenue Regulations No. 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. However, the 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 must be understood that the payment to Mr. Calapre of his salaries, 13th month pay and other benefits in excess of the Ninety Thousand Pesos (P90,000.00) threshold, however, is subject to income tax and consequently to withholding tax.

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,

LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue

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