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

Sec. 181 of 1997 Tax Code, as amended; Sec. 126 of Act No. 2031; Sec. 35 of RA No. 8042; Sec. 39 of RR No. 26; Sec. 2(a) of RR No. 9-2000; Sec. 3 of RR No. 1-2011, as amended by RR No. 11-2012
BIR Ruling No. 0345-2019
OT-0513-2020

SEP 14 2020

LULU-PHILS. INTERNATIONAL EXCHANGE, INC.
Unit 1006 One World Place Condominium
Block 7 Lot 5, 32nd Street,
Bonifacio Global City, Taguig City

Attention: ***Sunil Kumar Gopi Nair***

Gentlemen:

This has reference to your letter dated December 10, 2019 requesting on behalf of Lulu-Phils. International Exchange, Inc. ("Lulu Phils. Inc."), for a ruling on the proper treatment on the imposition of documentary stamp tax (DST) under Section 181 of the National Internal Revenue Code (NIRC) of 1997, as amended, with regard to transactions where it is merely acting as a mediator of its Parent Company and payout partner banks and non-bank money transfer agents.

It is represented that Lulu Phils. Inc. is a domestic corporation duly organized and registered with the Securities and Exchange Commission (SEC) with Certificate of Registration No. [redacted] dated August 19, 2011; that it has its principal place of business at Unit 1006 One World Place Condominium, Block 7 Lot 5, 32nd Street, Bonifacio Global City, Taguig City; that it is primarily a financial service company engaged in facilitating fund transfer and providing remittance services either by electronic, telegraphic, wire or any other mode or form of transfer; that it is a subsidiary to its parent company, Lulu International Exchange LLC ("Lulu International"), a foreign corporation duly registered in Abu Dhabi, United Arab Emirates (UAE); and that it is acting as remittance service provider/mediator of Lulu International and the corresponding payout bank and non-bank money transfer agents.

Lulu International receives foreign remittances in its UAE branches from benefactor-remitter to be remitted to the Philippines. In turn, Lulu International will send communication or instruction to Lulu Phils. Inc. for the purpose of specifying the bank and non-bank money transfer agents where the latter will remit the foreign remittance. It is the obligation of the bank and non-bank money transfer agents to pay out the money transfers to the designated beneficiaries.

OT- 0513-2020
SEP 14 2020

Lulu Phils. Inc. maintains that it is a mere mediator between its parent company, Lulu International, and the payout partner banks and non-bank money transfer agents. Being a mediator, it is not a party to the remittance transaction, therefore is not under obligation to pay the DST imposed under Section 181 of the NIRC of 1997, as amended. Hence, this query.

In reply, please be informed that Section 181 of the NIRC of 1997, as amended, provides that:

> *"SEC. 181. Stamp Tax Upon Acceptance of Bills of Exchange and Others. Upon any acceptance or payment of any bill of exchange or order for the payment of money purporting to be drawn in a foreign country but payable in the Philippines, there shall be collected a documentary stamp tax of Sixty centavos (P0.60)[1] on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such bill of exchange, or order, or the Philippine equivalent of such value, if expressed in foreign currency."*

The said provision of law imposes DST on every acceptance or payment of bill of exchange or other bills of exchange or draft for the payment of money drawn in a foreign country but payable in the Philippines.

A bill of exchange under Section 126 of Act No. 2031 otherwise known as the "Negotiable Instruments Law of the Philippines" is defined as follows:

> *"Sec. 126. Bill of exchange, defined. - A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer."*

Also, a bill of exchange was defined under Section 39 of Revenue Regulations (RR) No. 26, to wit:

> *"SECTION 39. Definition of "Bill of Exchange". - The term "bill of exchange" denotes checks, drafts, and all other kinds of orders for the payment of money, payable at sight or on demand or after a specific period after sight or from a stated date."*

Money remittances from foreign countries fall within the purview of Section 181 of the NIRC of 1997, as amended, thus, liable to DST on their transactions. As a rule, acceptance by beneficiaries of money sent from abroad is subject to DST equivalent to [redacted] ([redacted]) on each [redacted] ([redacted]), or fractional part thereof, of the face value or the Philippine equivalent of such value, if expressed in foreign currency.

Moreover, Section 2(a) of RR No. 9-2000 dated November 22, 2000 provides:

> *"Section 2. Nature of the Documentary Stamp Tax and Persons Liable for the Tax. –*

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[1] As amended by Section 57 of Republic Act No. 10963 or the TRAIN Law. Previous rate was P0.30

*(a) In General. – The documentary stamp taxes under Title VII of the Code is a tax on certain transactions. It is imposed against **"the person making, signing, issuing, accepting, or transferring"** the document or facility evidencing the aforesaid transactions. Thus, in general, **it may be imposed on the transaction itself or upon the document underlying such act.** Any of the parties thereto shall be liable for the full amount of the tax due: Provided, however, that as between themselves, the said parties may agree on who shall be liable or how they may share on the cost of the tax." (Emphasis supplied)*

In the instant case and as represented, the inward remittance transaction is between parent company, Lulu International, the party who makes an order of payment, and the payout partner banks and non-bank money transfer agents, the party required to pay. Lulu Phils. Inc. merely facilitates the fund transfer to designated payout banks and non-bank money transfer agents in accordance with the communications or instructions of its parent company, Lulu International. Thus, in such a situation, Lulu Phils. Inc. is not privy in the actual remittance transactions of money transfer between the sender and the beneficiaries and does not in any manner, accept or pay any bill of exchange or order of payment of money purporting to be drawn in a foreign country payable in the Philippines. Hence, not being a party to the transaction under the aforesaid set up, Lulu Phils. Inc. is not liable for the payment of DST under Section 181 of the NIRC of 1997, as amended.

It is worthy to mention, however, that transactions between Lulu International and its corresponding payout partner bank and non-bank money transfer agents is considered a money remittance from foreign countries subject to DST in the ambit of Section 181 of the NIRC of 1997, as amended. Since DST is a tax on transaction itself or upon the document underlying such act, any of the parties thereto shall be liable for the full amount of the tax due.

Moreover, Section 3(c)(4) of RR No. 09-00 provides for the party liable to remit DST:

"SECTION 3. Mode of Payment and Remittance of the Tax. —

(a) xxx xxx xxx

(c) Person liable to remit the DST. — In general, the full amount of the tax imposed under Title VII of the Code may be remitted by any of the party or parties to the taxable transaction, except in the following cases:

xxx xxx xxx

(4) When one of the parties to the taxable document or transaction is included in any of the entities enumerated below, such entity shall be responsible for the remittance of the stamp tax prescribed under Title VII of the Code: Provided, however, that if such entity is exempt from the tax herein imposed, it shall remit the tax as a collecting agent, pursuant to the preceding paragraph 3(b)(2) hereof, any provision of these Regulations to the contrary notwithstanding

(a) A bank, a quasi-bank or non-bank financial intermediary, a finance company, or an insurance, a surety, a fidelity, or annuity company;

OT - 0513 - 2020
SEP 14 2020

xxx xxx xxx"

Thus, payout partner banks and non-bank money transfer agents shall be responsible for the payment and remittance of the DST.

However, if the remittance is from Overseas Contract Workers (OCWs) or Overseas Filipino Workers (OFWs), it shall be exempt from the payment of DST pursuant to Section 35 of Republic Act (RA) No. 8042[2], as amended by RA No. 10022,[3] to *wit*:

> *"SEC. 35. Exemption from Travel Tax Documentary Stamp and Airport Fee. - All laws to the contrary notwithstanding, the migrant workers shall be exempt from the payment of travel tax and airport-fee upon proper showing of proof entitlement by the POEA.*
>
> *The remittances of all overseas Filipino workers, upon showing of the same proof of entitlement by the overseas Filipino worker's beneficiary or recipient, shall be exempt from the payment of documentary stamp tax."* (Underscoring supplied)

The above provision is implemented by Section 3 of RR No. 1-2011, as amended by RR No. 11-2012, which states that:

> *"Section 3. Tax Treatment.*
>
> *xxx xxx xxx*
>
> *C) Other Taxes and Fees:*
>
> *xxx xxx xxx*
>
> ***The remittances of all OCWs or OFWs, upon showing of the OEC, valid Overseas Workers Welfare Administration (OWWA) Membership Certificate, or electronic receipt (e-receipt) issued by POEA, by the OCWs or OFW beneficiary recipient, shall be exempt from the payment of documentary stamp tax (DST) as imposed under Section 181 of the National Internal Revenue Code of 1997, as amended.** For this purpose, in addition to the original copy, a duplicate copy or a certified true copy of the valid proof of entitlement referred to above shall be secured by the OCW or OFW from the POEA or OWWA, which shall be held and used by his/her beneficiary in the availment of the DST exemption.*
>
> *In case of OCWs or OFWs whose remittances are sent through the banking system, credited to beneficiaries or recipient's account in the Philippines and withdrawn through automatic teller machine (ATM), or sent through non-bank money transfer agents, it shall be the responsibility of the*

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2 Migrant Workers and Overseas Filipinos Act of 1995.

3 An Act Amending Republic Act No. 8042, Otherwise Known as the Migrant Workers and Overseas Filipinos Act of 1995, as Amended, further Improving the Standard of Protection and Promotion of the Welfare of Migrant Workers, their Families and Overseas Filipinos in Distress, and for Other Purposes.

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OT-0513-2020
SEP 14 2020

OCW or OFW to show the valid proof of entitlement when making arrangement for his/her remittance transfers.

xxx" (Emphasis supplied)

Based on the foregoing, if the transaction involves remittances from OCWs or OFWs such transactions will not be subject to payment of DST, provided the abovementioned requirements are complied with by payout partner banks and non-bank money transfer agents.

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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