REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

OT-331-2021
SEP 20 2021

EMPERADOR, INC.
7th Floor, 1880 Eastwood Avenue
Eastwood City Cyberpark
188 E. Rodrigues Jr. Avenue
Bagumbayan, 1110 Quezon City

Attention: DR. ANDREW L. TAN
Chairman

Gentlemen:

This refers to your request, on behalf of Emperador, Inc. ("Emperador"), for confirmation that the intended disposition of the Emperador shares listed in the Philippine Stock Exchange ("PSE") through listing in Singapore Stock Exchange ("SGX") is exempt from stock transaction tax (STT) imposed under Section 127 of Tax Code of 1997, as amended.

It is represented that Emperador is one of the leading global spirits brand with established footprint in over 100 countries and currently enjoys leading market positions in brandy and whisky in the local and international markets; that its Board of Directors approved its pursuit of a Secondary Listing on the Main Board of the SGX in order to create stronger awareness of Emperador and its world-class brands, as well as increase its stocks' visibility and international investor participation; that it is now in the process of complying with all the necessary requirements for a Secondary Listing on the SGX; that its common shares are listed and traded with the PSE and will continue to maintain its primary listing in the PSE; that it is optimistic that its Secondary Listing will serve as a catalyst to bring about a future strategic collaboration between the PSE and the SGX; and that the outline of the transaction is as follows:

1. Pursuant to a capital market exercise, certain stockholders of Emperador shall sell substantial number of listed shares thru PSE to brokers of SGX. This will effectively create a pool of shares within SGX for their brokers to pursue secondary trading of Emperador shares in the said foreign stock exchange. Consequently, all shares that will be traded in SGX will have to be listed shares in the PSE and cleared through the facilities of SGX. **There will be no secondary trading of over-the-counter or non-PSE-listed shares and only the number of listed shares sold by stockholders of Emperador to the brokers of SGX can be traded in SGX;**

2. As there is now borderless transaction of securities in the international stock exchanges, there will now be scriptless trading of Emperador stocks in both PSE and SGX. As part of trading monitoring system, the daily trade volume of Emperador shares is disclosed to the public by SGX daily; and

3. To effect the secondary trading, the central depository and clearing house of SGX or The Central Depository (CDP) will work with the central depository and clearing house of PSE or Philippine Depository & Trust Corp. (PDTC) in order to, among others, be able to properly reflect the beneficial owners of Emperador shares traded through the SGX. Thus, any succeeding trading of Emperador shares in the SGX will have to be reconciled by PDTC and CDP such that any transfer of ownership of Emperador shares executed and traded via SGX can be duly recorded in the books of Emperador in the name of the new owners/buyers;

Based thereon, you now request for confirmation that the intended disposition of the PSE-listed Emperador shares through secondary listing in SGX is outside of, and exempt from, the tax imposed by Section 127 (A) of the Tax Code of 1997, as amended.

In reply, please be informed that Section 127(A) of the Tax Code of 1997, as amended, provides that:

> *"SEC. 127. Tax on Sale, Barter or Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange or through Initial Public Offering. –*
>
> *(A) Tax on Sale, Barter or Exchange of Shares of Stock Listed and Traded through the Local Stock Exchange. –– There shall be levied, assessed and collected on <u>every sale, barter, exchange or other disposition of shares of stock listed and traded through the local stock exchange other than the sale by a dealer in securities</u>, a tax at the rate of six-tenths of one percent (6/10 of 1%) of the gross selling price or gross value in money of the shares of stock sold, bartered, exchanged or otherwise disposed which shall be paid by the seller or transferor."* (Underscoring supplied)

As prescribed by Section 127 of the Tax Code of 1997, as amended, every sale, barter, exchange or other disposition of shares of stock listed and traded through the local stock exchange or the PSE is subject to the stock transaction tax of six-tenths of one percent (6/10 of 1%) of the gross selling price or gross value in money of the shares of stock sold, bartered, exchanged or otherwise disposed.

In transactions involving stock transfer in any stock exchange, the tax is classified as a percentage tax, which is a business tax imposed on the gross selling price of the shares of stock sold, bartered, exchanged or otherwise disposed of, irrespective of the nationality or location of the transferee. It is a final tax on income from such disposition of shares of stocks and Section 127 of the Tax Code of 1997, as amended, as worded, does <u>not</u> admit of any tax exemption but taxes every transfer of shares.

In the case of Emperador, it is now in the process of listing its shares outside the local stock exchange due to technological advances in modern commerce which make possible mutual cooperation and borderless trading of securities across and between foreign stock exchanges. However, the intended trading of the Emperador shares from PSE to SGX, whether in the primary or secondary stage, still involves disposition of shares from the Philippines regardless of where the said shares are sold. The fact remains that notwithstanding the participation of SGX in the trading transactions, the underlying PSE-listed Emperador shares are still ultimately executed thru the trading system or facilities of the PSE. And, as represented, there will be no secondary trading of over-the-counter or non-PSE-listed shares and only the number of listed shares sold by stockholders of Emperador to the brokers of SGX can be traded in SGX. Thus, given these circumstances, it is our considered view that the intended disposition of the Emperador shares still falls within the ambit of Section 127 of the Tax Code of 1997, as amended.

Furthermore, Section 11 of Revenue Regulations No. 6-2008, as amended, entitled "*Consolidated Regulations Prescribing the rules on the Taxation of Sale, Barter, Exchange or other Disposition of Shares of Stock Held as Capital Assets*", provides that the taxes imposed therein, which include STT for listed and traded shares under Section 127 of the Tax Code of 1997, as amended, must be paid as a condition for the transfer to be so recorded in the books of the corporation. It reads:

> "*SEC. 11. EFFECT OF NON-PAYMENT OF TAX. - No sale, exchange, transfer or similar transaction intended to convey ownership of, or title to any share of stock shall be registered in the books of the corporation unless the receipts of payment of the tax herein imposed is filed with and recorded by the stock transfer agent or secretary of the corporation. It shall be the duty of the aforesaid persons to inform the Bureau of Internal Revenue in case of non-payment of tax. Any stock transfer agent or secretary of the corporation or the stockbroker, who caused the registration or transfer of ownership or title of any share of stock in violation of the aforementioned requirements shall be punished in accordance with the provisions of the Title X, Chapters I and II of the Tax Code, as amended.*"

Consequently, we reiterate the view that - given the aforesaid circumstances - every successive trading of your Emperador shares as listed and traded primarily through the PSE and secondarily through the SGX, cannot be exempted from, but shall remain within the coverage of, STT under Section 127 of the Tax Code of 1997, as amended.

In view of all the foregoing, your request for exemption of the aforesaid transaction from STT imposed under Section 127 of the Tax Code of 1997, as amended, on the intended disposition of PSE-listed Emperador shares through secondary trading in SGX, is hereby denied for lack of legal basis.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1

045092