REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

National Office Building
Quezon City

Sections 27(c) and 119 of the Tax Code of 1997, as amended	
BIR Ruling No. 179-2012	
OT- 005-2025	

JAN 06 2025

TANAY WATER DISTRICT
IFP Bldg., No. 41 F.T. Catapusan St.,
Tanay, Rizal

Attention: ENGR. ARMANDO H. BONGAT
OIC – General Manager C

Gentlemen:

This refers to your letter, indorsed to this Office by Revenue Region No. 7B-East NCR, requesting, on behalf of Tanay Water District, for a Certificate of Tax Exemption pursuant to Republic Act (RA) No. 10026, otherwise known as, "An Act Granting Income Tax Exemption to Local Water Districts by Amending Section 27 (C) of the National Internal Revenue Code of 1997 (1997 Tax Code), as Amended, and Adding Section 289-A."

In reply, please be informed that Section 27 (C) of the 1997 Tax Code, as amended by RA No. 10026, provides for the exemption of local water districts from income tax as follows:

> *"Sec. 27. Rates of Income Tax on Domestic Corporations. —*
>
> *xxx xxx xxx*
>
> *(C) Government-Owned or Controlled Corporations, Agencies or Instrumentalities. — The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies, or instrumentalities owned or controlled by the Government, except the Government Service Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), the local water districts (LWD) and the Philippine Charity Sweepstakes Office (PCSO)[1], shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in a similar business, industry, or activity." (Underscoring supplied)*

Based on the above-cited provision, a local water district is not liable to pay such rate of tax as imposed on other domestic corporations engaged in a similar business, industry or

[1] Under RA No. 10963, the taxable income of Philippine Charity Sweepstakes Office (PCSO) is now subject to tax.

activity. Accordingly, Tanay Water District is not subject to income tax and, consequently, to the creditable withholding tax. (*BIR Ruling No. 179-2012 dated March 14, 2012*)

However, Section 119 of the 1997 Tax Code provides that —

"SEC. 119. Tax on Franchises. — Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises . . . and on gas and water utilities, a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise: . . . "

Thus, while a local water district, like Tanay Water District, is exempt from the corporate income tax of 25%, it is nevertheless subject to the 2% franchise tax as prescribed in Section 119 of the 1997 Tax Code, as amended, as there is no express provisions in RA No. 10026 and Revenue Memorandum Circular No. 28-2010 exempting the local water districts from the said 2% franchise tax. (*BIR Ruling No. 179-2012 dated March 14, 2012*)

Moreover, Section 5.116 (A) (4) (b) of Revenue Regulations (RR) No. 2-98, as amended, provides:

"Sec. 5.116. Withholding of Percentage Tax. —

Bureaus, offices and instrumentalities of the government, including government-owned or controlled corporations as well as their subsidiaries, provinces, cities and municipalities making any money payment to private individuals, corporations, partnerships and/or associations are required to deduct and withhold the percentage taxes due from the payees on account of such money payments.

(A) Internal Revenue Taxes Required to be Withheld. — Percentage taxes on gross money payments to the following shall be subjected to withholding at the rates herein prescribed.

xxx xxx xxx

(4) Franchises. —

xxx xxx xxx

(b) On gross payments to franchisees on gas and water utilities. — Two percent (2%)

xxx xxx xxx"

Based on the foregoing, gross money payments to Tanay Water District by bureaus, offices and instrumentalities of the government, including government-owned or controlled corporations as well as their subsidiaries, provinces, cities and municipalities, is subject to the withholding of 2% franchise tax. The said 2% franchise tax withheld from the gross payments to Tanay Water District can be applied against its franchise tax liability under Section 119 of the 1997 Tax Code, as amended.

In sum, this Office holds that while Tanay Water District is not subject to income tax, and, consequently, to the creditable withholding tax, it shall be subject to the 2% franchise tax as imposed in Section 119 of the 1997 Tax Code, and to the 2% creditable franchise tax imposed under Section 5.116 (A) (4) (b) of RR No. 2-98 in case payment is made by bureaus, offices and instrumentalities of the government, including government-owned or controlled corporations as well as their subsidiaries, provinces, cities and municipalities.

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.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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