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

Sec. 173 & 184, NIRC; P.D. 4	000-00	554-2017 12-[illegible]-2017

Person to Contact: Chief, Law & Legislative Division
Tel Nos. 926-55-36/927-09-63

GOVERNMENT SERVICE INSURANCE SYSTEM
Financial Center, Pasay City, 1308 Metro Manila

Attention: **Atty. Nelo B. Gellaco**
OIC, Marketing, Underwriting and Claims Office
Insurance Group

Gentlemen:

This refers to your letter dated June 29, 2017 requesting this office to provide the Government Service Insurance System (GSIS) with the Bureau of Internal Revenue's (BIR) Certificate of Tax Exemption from the payment of documentary stamp tax (DST) on insurance policy, if any.

In your letter, you advised this office that the System shall start collecting DST for every insurance policy which the GSIS shall issue starting July 1, 2017 pursuant to Revenue Memorandum Circular (RMC) No. 59-2008 dated August 23, 2008, amending RMC 30-2008, clarifying the taxability of both the life and the non-life insurance industries.

The Circular requires the GSIS to collect by proper billing and remit DST for every insurance policy which it shall issue starting July 1, 2017. The DST shall be computed by multiplying a flat rate of 12.5% with the net premium appearing in the subject policy. For compulsory Third Party Liability, a fixed amount of PhP15.00 shall be due for every Certificate of Cover issued. For the Group Personal Accident Insurance, Group Travel Accident Insurance, and Personal Accident Insurance (Optional Non-Life Insurance) coverage, the rate shall be subject to the following schedule pursuant to BIR Memorandum Order (RMO) No. 79-2010 dated October 14, 2010:

Amount of Insurance	Tax Rate
does not exceed PhP100,000.00	Exempt
exceeds PhP100,000.00 but does not exceed PhP300,000.00	PhP 10.00
exceeds PhP300,000.00 but does not exceed PhP500,000.00	25.00
exceeds PhP500,000.00 but does not exceed PhP750,000.00	50.00
exceeds PhP750,000.00 but does not exceed PhP1,000,000.00	75.00
exceeds PhP1,000,000.00	100.00

In reply, please be informed that Section 173 of the Tax Code, as amended, provides that there shall be levied, collected and paid upon documents, instruments and papers evidencing the act done or transaction had or the agreement or contract has been perfected, DST. On the other hand, Section 184 of the same Code provides that DST shall be based on the amount of premium charged. DST shall be due upon the issuance of the insurance policy and the premium charged on the estimated insurance coverage, as it is reflected on the face of the policy, and which shall be the amount on which the DST due shall be based.

However, Section 199 of the Tax Code, as amended, and as implemented by Revenue Regulations (RR) No. 13-04 dated December 23, 2004 provides that certificates placed upon documents, instruments and papers for the national government, made at the instance and for the sole use of some other branch of the national government, are exempted from documentary stamp tax -

> *"**Sec. 199. Documents and Papers not Subject to Stamp Tax** — The provisions of Section 173 notwithstanding, the following instruments, documents, and papers shall be exempt from the documentary stamp tax:*
>
> *a) Policies of insurance or annuities . . .*
>
> *b) Certificates of oath administered to any government official in his official capacity or of acknowledgement by any government official in the performance of his official duties; written appearance in any court by any government official, in his official capacity; certificates of the administration of oaths to any person as to the authenticity of any paper required to be filed in court by any person or party thereto, whether the proceedings be civil or criminal; papers and documents filed in courts by or for the national, provincial, city, or municipal governments; affidavits of poor persons for the purpose of proving poverty; statements and other compulsory information required of persons or corporations by the rules and regulations of the national, provincial, city, or municipal governments exclusively for statistical purposes and which are wholly for the use of the bureau or office in which they are filed, and not at the instance or for the use or benefit of the person filing them; certified copies and other certificates placed upon documents, instruments, and papers for the national, provincial, city, or municipal governments, made at the instance and for the sole use of some other branch of the national, provincial, city, or municipal governments; . . ."*

In view of the foregoing, the certificates of insurance policy that will be issued by GSIS to the Bureau of Internal Revenue, being certificates for an agency under the Executive branch of the national government, made at its instance and for its sole use, and for the account of the Bureau of Internal Revenue are exempt from the DST.

In relation to the aforementioned exemption, Section 173 of the Tax Code, as amended, provides that whenever one party to the taxable document enjoys exemption from the DST, the other party thereto who is not exempt shall be the one directly liable for the tax.

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We note, however, that the GSIS is, likewise, exempt from all taxes, including DST, pursuant to Section 39 of Republic Act No. 8291, amending P.D. 1146, otherwise known as the "Government Service Insurance System Act of 1997."

Such being the case, neither the BIR nor the GSIS shall be liable for the DST on the insurance policy.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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