REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7227; RR No. 2-98
BIR Ruling No. 291-12
[illegible]1-2017

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SUBIC NEXUS TECHNOLOGIES, INC.
Brand-Rex Compound Lot 11/12 Argonaut Highway
Boton Area, Subic Bay Freeport Zone

Attention: **Maria Teresa Teologo-Matammu**
Comptroller

Gentlemen:

This refers to your letter dated November 28, 2014 requesting on behalf of Subic Nexus Technologies, Inc. ("Subic Nexus") for a Certificate of Exemption from the payment of creditable withholding tax prescribed under Revenue Regulations No. 2-98, as amended, on account of your registration with the Subic Bay Metropolitan Authority (SBMA) in accordance with Republic Act (RA) No. 7227, otherwise known as, the "Bases Conversion and Development Act of 1992."

It is represented that Subic Nexus, with Tax Identification Number , is a domestic company duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. and that it is also registered with SBMA as a Subic Bay Freeport Enterprise with the following purposes: Systems integrator, reseller of IT products and services to Subic Bay Freeport Zone enterprises and those located in nearby economic zones at Area 11-A, 11B & 2, Lot 11/12, Argonaut Highway, Boton Area, Subic Bay Freeport Zone, per Certificate of Registration and Tax Exemption No. , valid until October 12, 2017.

In reply, please be informed that SBMA-registered enterprises are exempt from paying all local and national taxes and, in lieu thereof, are only subject to the 5% special tax on gross income, to be distributed in accordance with RA No. 7227, to wit:

> "SECTION 12. Subic Special Economic Zone. —xxx
>
> The abovementioned zone shall be subject to the following policies:
>
> xxx xxx xxx
>
> (c) The provisions of existing laws, rules and regulations to the contrary notwithstanding, no taxes, local

> and national, shall be imposed within the Subic Special Economic Zone. In lieu of paying taxes, three percent (3%) of the gross income earned by all business and enterprises within the Subic Special Economic Zone shall be remitted to the National Government, one percent (1%) each to the local government units affected by the declaration of the zone in proportion to their population area, and other factors.
>
> xxx xxx xxx"

Relative to the above-provision, Section 2.57.5(B)(2) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 14-02, provides:

> "SECTION 2.57.5. Exemption from Withholding. – The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:
>
> xxx xxx xxx
>
> (B) Persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special, such as but not limited to the following:
>
> xxx xxx xxx
>
> (2) Corporations registered with the Board of Investments, Philippine Export Processing Zones and <u>Subic Bay Metropolitan Authority</u> enjoying exemption from the income tax pursuant to EO 226, as amended, Republic Act No. 7916 and the Omnibus Investments Code of 1987 and RA 7227, as amended, respectively;
>
> xxx xxx xxx." (Underscoring supplied)

Based on the foregoing, Section 2.57.5.(B)(2) of RR No. 2-98, as amended, is explicit that the expanded withholding tax does not apply to income payments to persons enjoying exemption from payment of income taxes pursuant to the provisions of any law, general or special. Accordingly, since Subic Nexus is a SBMA-registered enterprise, income payments made to it, with respect to its registered activity: <u>Systems integrator, reseller of IT products and services to Subic Bay Freeport Zone enterprises and those located in nearby economic zones at Area 11-A, 11B & 2, Lot 11/12, Argonaut Highway, Boton Area, Subic Bay Freeport Zone</u>, shall not be subject to 2% creditable withholding tax prescribed in RR No. 2-98, as amended. (*BIR Ruling No. 25-2012* dated April 25, 2012)

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It must be emphasized, however, that Subic Nexus shall be constituted as a withholding agent for the government if it acts as employer and any of its employees received compensation income subject to compensation withholding tax, or if it makes payments to individuals or corporations subject to the withholding tax at source, as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended, and implemented by RR No. 2-98, as amended.

Pursuant to Section 4 of Republic Act (RA) No. 10708[1], Subic Nexus is required to file its tax returns and pay its tax liabilities, on or before the deadline as provided under the 1997 Tax Code, as amended, using the electronic system for filing and payment of taxes of the BIR. Furthermore, it shall file with SBMA a complete annual tax incentives report of its income-based tax incentives, VAT and duty exemptions, deductions, credits or exclusions from the tax base, as may be provided under RA No. 7227, within thirty (30) days from the deadline for filing of tax returns and payment of taxes.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] An Act Enhancing Transparency in the Management and Accounting of Tax Incentives Administered by Investment Promotion Agencies.