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

Sec. 24 (B)(2), 1997 Tax Code, as amended	000-00 OT-315-2022	

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

Date: JUN 28 2022

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19th and 20th Floors, Tower 1
The Enterprise Center
6766 Ayala Avenue
1200 Makati City

Attention: **Atty. Eleonor L. Roque**
Head, Tax Advisory & Compliance

Gentlemen:

This refers to your letter dated June 10, 2015, requesting on behalf of your client **Ouroku Corporation** for confirmation of your opinion that the cash dividends declared and to be declared by Ouroku to its majority stockholder, **Mr. Masao Koike**, a resident alien is subject to the 10% final tax pursuant to Section 24 (B)(2) of the 1997 Tax Code, as amended.

As represented, **Ouroku Corporation** ("Ouroku"), with Taxpayer Identification Number (TIN)   is a corporation organized under Philippine laws in 2011. It is registered with the Philippine Economic Zone Authority (PEZA) as an export enterprise engaged in the manufacture of blocks made of mortar with ducts (high blocks) and other related goods. It is currently operating at Mactan Economic Zone (MEZ) II, Lapu-Lapu City.

Ouroku is owned by Mr. Masao Koike (TIN   a Japanese citizen and majority stockholder of the Company, owning at least 99.99% of the outstanding capital stock. He is currently serving as President, with office address at Mactan Economic Zone (MEZ) II, Lapu-Lapu City, and manages Ouroku's day-to-day operations. Mr. Koike is a resident alien in the Philippines as confirmed by the Bureau of Internal Revenue (BIR) pursuant to BIR Ruling No. DA-290-2005 dated June 27, 2005.

In reply, please be informed that that pursuant to Section 24(B)(2) of the Tax Code of 1997, as amended, cash and/or property dividends paid to individual citizen/resident alien during the taxable year shall be subject to a final tax of ten percent (10%) -

*"SEC. 24. **Income Tax Rates.** –*

(A) Rates of Income Tax on Individual Citizen and Individual Resident Alien of the Philippines. –

x x x   x x x   x x x

(B) Rate of Tax on Certain Passive Income.

(1) xxx xxx xxx

(2) Cash and/or Property Dividends. — A final tax at the following rates shall be imposed upon the cash and/or property dividends actually or constructively received by an individual from a domestic corporation or from a joint stock company, insurance or mutual fund companies and regional operating headquarters of multinational companies, or on the share of an individual in the distributable net income after tax of a partnership (except a general professional partnership) of which he is a partner, or on the share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium taxable as a corporation of which he is member or co-venturer.

xxx xxx xxx

Ten percent (10%) beginning January 1, 2000.

xxx xxx xxx"

In relation thereto, Section 22(F) of the same Code defines the term "resident alien" to mean an individual whose residence is within the Philippines and who is not a citizen thereof. Conversely, Section 5 of Regulations No. 2, otherwise known as the Income Tax Regulations defines a "non-resident alien individual" as an individual —

(a) Whose residence is not within the Philippines; and
(b) Who is not a citizen of the Philippines.

In BIR Ruling No. DA-290-2005 dated June 27, 2005, this Office had occasion to rule that Mr. Koike, an owner and officer of Blaze Manufacturing Corporation is a resident alien subject to the 10% final tax –

"An alien actually present in the Philippines who is not a mere transient or sojourner is a resident of the Philippines for purposes of the income tax. Whether he is a transient or not is determined by his intentions with regard to the length and nature of his stay. A mere floating intention indefinite as to time, to return to another country is not sufficient to constitute him a transient. If he lives in the Philippines and has no definite intention as to his stay, he is a resident. One who comes to the Philippines for a definite purpose which in its nature may be promptly accomplished is a transient. But if his purpose is of such a nature that an extended stay may be necessary for its accomplishment, and to that end the alien makes his home temporarily in the Philippines, he becomes a resident, though it may be his intention at all times to return to his domicile abroad when the purpose for which he came has been consummated or abandoned.

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A careful scrutiny of the above-cited laws disclosed that Mr. Koike is considered a resident alien for purposes of his income tax liability in the Philippines as he has passed the requisites for a resident alien. As represented, he has been involved with the Company since 1996 when it was incorporated. If fact, when Blaze started its operations in February 1998, he has served as its Vice President and subsequently on October 28, 1998, obtained a special non-immigrant visa. Moreover, being the President of the Company he is required to be in the Philippines most of the time since he manages the day-to-day operations.

x x x x x x x x x

Since Mr. Koike is a resident alien, his dividend income will be subject to the 10% final tax as prescribed in Section 24(B)(2) of the Tax Code of 1997. Consequently, Blaze, as a withholding agent, shall be liable to withhold the 10% final tax on such income tax pursuant to Revenue Regulations No. 2-98."

Applying the above-cited laws, Mr. Masao Koike is considered a resident alien for purposes of his income tax liability in the Philippines considering his residence is within the Philippines and he is not a citizen of the Philippines. Accordingly, his dividend income will be subject to the 10% final tax as prescribed in Section 24 (B)(2) of the Tax Code of 1997, as amended.

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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