Sec. 32(B)(7)(a)(i), Tax Code
BIR Ruling No. 495-12
OT- 001-2025
JAN 03 2025

DU-BALADAD AND ASSOCIATES
20th Floor, Chatham House, Rufino Cor. Valero Sts.
Salcedo Village, 1227, Makati City

Attention: **Mr. Fulvio D. Dawilan**
Managing Partner

Gentlemen:

This refers to your request on behalf of your client, **CAISSE DE DÉPÔT ET PLACEMENT DU QUÉBEC ("CDPQ")** for confirmation of your opinion that all income received by CDPQ from current and future investments in the Philippines (including but not limited to, interest and dividends) is exempt from income tax and withholding taxes in accordance with Section 32(B)(7)(a)(i) of the National Internal Revenue Code of 1997, as amended ("Tax Code").

Background

1. As represented, in Quebec's public administrative system, certain administrative functions are assigned to autonomous agencies rather than to government ministries. These agencies are corporations, councils, bureaus, boards, commissions or administrative tribunals. Each of these agencies reports to the minister, who is accountable for their management before the National Assembly.[1]

2. It is also represented that CDPQ is among the autonomous corporations assigned with administrative functions under Quebec's public administrative system.

3. CDPQ was created by an Act of the National Assembly of Quebec, otherwise known as "An Act Respecting the Caisse de dépôt et placement du Québec" ("the Act") for the purpose of receiving moneys on deposit and managing the same with a view to achieving optimal return on capital within the framework of depositors' investment policies while at the same time contributing to Quebec's economic development. Specifically, it manages public pension plans and insurance program in Quebec, Canada.

[1] http://www.gouv.qc.ca/EN/LeQuebec/pages/AdministrationPublique.aspx

4. Documents show that CDPQ is a mandatary of the State of Quebec and property belonging to it shall be the property of the state. The affairs of CDPQ are administered by a board of directors, which are duly appointed by the government of Quebec. CDPQ is mandated to submit to the Minister of Finance before April 15 each year a report on its operations for the previous year which shall be forthwith laid before the National Assembly.

5. CDPQ is considered as a resident of Canada for tax purposes as evidenced by a Certificate of Canadian Residency. It is not registered with the Philippine Securities and Exchange Commission to engage in any kind of trade or business in the Philippines.

6. Pursuant to its mandate, CDPQ made several investments in various instruments and securities in the Philippines, for which it earns income such as dividends and interests.

Discussion/Ruling

In reply, please be informed that Section 32 (B)(7)(a) of the National Internal Revenue Code of 1997, as amended (Tax Code), provides that income derived from investments in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by (i) foreign governments, (ii) financing institutions owned, controlled, or enjoying refinancing from foreign governments, and (iii) international or regional financial institutions established by foreign governments shall be exempt from taxation.

The above-cited provision is similar to Section 892 of the US Internal Revenue Code (IRC) from which our Tax Code is closely patterned. Section 892 of the IRC exempts from tax, payments to a foreign government (including a foreign central bank of issue wholly owned by a foreign sovereign) from investments in the United States in stocks, bonds, other domestic securities, financial instruments held in the execution of governmental financial or monetary policy, and interest on deposits in banks in the United States. For this purpose, the US IRC defines "foreign government" to include only the integral parts or controlled entities of a foreign sovereign. An integral part of a foreign sovereign, in general, is any person, body of persons, organization, agency, bureau, fund, **instrumentality**, or other body, however designated, that constitutes a governing authority of a foreign country. The net earnings of the governing authority must be credited to its own account or to other accounts of the foreign sovereign, with no portion benefiting any private person. A controlled entity of a foreign sovereign is an entity that is separate in form from the foreign sovereign or otherwise constitutes a separate juridical entity only if:

- It is wholly owned and controlled by the foreign sovereign directly or indirectly through one or more controlled entities;
- It is organized under the laws of the foreign sovereign by which it is owned;
- Its net earnings are credited to its own account or to other accounts of the foreign sovereign, with no portion of its income inuring to the benefit of any private person; and

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- Its assets vest in the foreign sovereign upon dissolution.[2]

On the other hand, Section 2(10) of the Administrative Code of 1987, "government instrumentality" is defined as follows:

> "(10) *Instrumentality* refers to any agency of the National Government not integrated within the department framework, vested with special functions or jurisdiction by law, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy, usually through a charter. **This term includes regulatory agencies, chartered institutions and government-owned or controlled corporations.**"

In relation to Section 2(10) which makes reference to agency of the National Government, Section 2(4) of the same Code defines "agency" to wit:

> "(4) *Agency of the Government* refers to any of the various units of the Government, **including** a department, bureau, office, instrumentality, or **government-owned or controlled corporation**, or a local government or a distinct unit therein." (emphasis supplied)

Considering that CDPQ is a government-owned autonomous corporation created by an Act of the National Assembly of Quebec, it is a government agency or instrumentality of the State of Quebec, hence, falls within the purview of "foreign governments" as contemplated under Section 32 (B)(7)(a)(i) of the Tax Code. Consequently, income earned by CDPQ from all investments in the Philippines (including but not limited to, interest and dividends) shall be exempt from Philippine income tax and withholding 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,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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[2] https://www.irs.gov/instructions/iw8exp