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

Sec. 32(B)(7) (a)(i), Tax Code
BIR Ruling No. 1369-18
BIR Ruling No. 1106-18
OT - 362 - 2021
OCT 04 2021

NAVARRO AMPER & CO.
19th Floor Net Lima Plaza
5th Avenue cor. 26th Street
Bonifacio Global City, Taguig 1634

Attention: **Atty. Senen M. Quizon**
Principal, Tax and Corporate Services

Gentlemen:

This refers to your letter dated August 28, 2019 requesting in behalf of your client, **Korea Investment Corporation ("KIC")** acting in behalf of the **Ministry of Economy and Finance of the Republic of Korea (MOEF)**, for confirmation of your opinion that all income derived by KIC from its investments in the Philippines in loans, stocks, bonds and other domestic securities or from interest on its deposits in banks in the Philippines, made in behalf of MOEF, is exempt from Philippine income tax, and consequently, to withholding tax pursuant to Section 32(B)(7)(a) of the National Internal Revenue Code of 1997, as amended (Tax Code). Also, any income from future stocks, bonds or other domestic securities, or from interest on its deposits in the Philippines for and in behalf of MOEF, shall likewise be exempt from Philippine income tax.

Background Information

The MOEF, with office address at Government Complex Sejong, 477 Galmae-ro, Sejong City, Republic of Korea, is an executive ministry that forms part of the government of the Republic of Korea, established under the control of the President of the Republic of Korea pursuant to Article 26 of the Government Organization Act (GOA), as amended. It is headed by the Minister of Economy and Finance who concurrently acts as one of the Deputy Prime Ministers. The Minister of the MOEF is tasked to administer duties concerning the establishment of mid- and long-term strategies for national development, formulation, overall control and coordination of economic and financial policies, formulation, execution and performance management of budgets and funds, currency, foreign exchange, National Treasury, government accounting, internal tax system, customs, international finance, management of public institutions; economic cooperation, State property, private investment and national debts.[1]

[1] See Article 27, GOA.

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KIC is a foreign government institution created on July 1, 2005 by virtue of the Korea Investment Corporation Act (KIC Act), as amended, and is a wholly owned subsidiary of MOEF. Its office is located at 100 Toegyo-ro, Jung-gu, Seoul, Republic of Korea. KIC was established for the purpose of conducting effective management of assets entrusted to it by the Government of Republic of Korea, the Bank of Korea, etc., to contribute to the development of the financial industry.[2]

On April 24, 2019, KIC and MOEF entered into an Asset Management Agreement (Agreement) wherein MOEF, as Trustor, entrusts to KIC, the Trustee, the management of assets of MOEF in accordance to the use and method for asset management stipulated by the parties.

Under the Agreement, KIC may, at its own discretion, trade, exchange, invest or reinvest entrusted assets for the purpose agreed upon and permitted by MOEF. KIC was also granted the power to engage in all acts considered as appropriate for the investment and management of securities which forms part of the entrusted assets and to appoint agents and investment brokers in pursuit of its asset management duties.[3]

Pursuant to the authority granted to KIC by the Agreement, it entered into a Master Global Custody and Related Services Agreement with **JPMorgan Chase Bank, National Association, Hong Kong Branch (Custodian Bank)** wherein KIC opened an account with the Custodian Bank in order to place investments in the Philippines in the form of domestic shares of stocks and government bonds. The account was made under the name of KIC acting in behalf of MOEF.[4]

Based on the foregoing, you request confirmation that the income from investments in loans, stocks, bonds or other domestic securities, or from interest on its deposits in banks in the Philippines derived by MOEF is exempt from Philippine income tax, and consequently, to withholding tax and that any future income from investments by KIC made on behalf of MOEF, in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on its deposits in the Philippines shall likewise be exempt from Philippine income tax.

In reply, please be informed that Section 32 (B)(7)(a) of the Tax Code, provides that:

"SEC. 32. Gross Income. –

x x x x x x x x x

[2] See Article 1, Korea Investment Corporation Act.
[3] See Article 4.2, Asset Management Agreement.
[4] See a copy of the KIC's investment position in the Philippines as certified by the Custodian Bank.

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(B) Exclusions from Gross Income. – The following items shall not be included in gross income and shall be exempt from taxation under this Title:

x x x   x x x   x x x

(7) Miscellaneous Items. –

(a) Income Derived by Foreign Government. – 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."

In the above-cited provision, it is clear that income derived from investment in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on deposits in banks in the Philippines by foreign governments and financing institutions wholly-owned, controlled or enjoying refinancing from foreign investments shall be exempt from income tax and, consequently, to withholding tax.

In view of the foregoing, since MOEF is an executive ministry that is part of the government of the Republic of Korea, it is considered a foreign government under Section 32 (B)(7)(a)(i) of the Tax Code, and any income from investments in loans, stocks, bonds or other domestic securities, or from interest on its deposits in banks in the Philippines derived by MOEF, as well as any future income from investments by KIC made in behalf of MOEF, in the Philippines in loans, stocks, bonds or other domestic securities, or from interest on its deposits in the Philippines 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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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