REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7916; RR No. 2-98
BIR Ruling No. 291-12
#568-2017

12-7-2017

PHILIPPINE ECONOMIC ZONE AUTHORITY
Building 5, DOE-PNOC Complex
Energy Center, 34th Street Bonifacio Global City
Taguig City

Attention: **Justo Porfirio LL. Yusingco**
Deputy Director General for Finance
and Administration/ Officer-In-Charge

Gentlemen:

This refers to your letter dated September 26, 2016, indorsing to this Office the request of SUNTRUST ECOTOWN DEVELOPERS, INC. ("SEDI") (formerly, Cavite Productivity and Economic Zone, Inc.), for exemption from creditable withholding tax on account of SEDI'S registration with PEZA under Republic Act (RA) No. 7916, otherwise known as the "Special Economic Zone Act of 1995."

It is represented that SEDI, with Tax Identification Number , is a domestic company duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. ; that SEDI is a PEZA-registered Developer/Operator of Suntrust Ecotown Tanza based on its amended Certificate of Registration No issued by PEZA on December 14, 2012; that Article I (1) of its Registration Agreement with PEZA provides that SEDI'S registration as an Ecozone Developer/Operator shall entitle it to establish, develop, construct, administer, manage and operate a Special Economic Zone to be known as Cavite Productivity Economic Zone (now, Suntrust Ecotown Tanza); that SEDI is allowed to lease, sell, assign, mortgage, transfer, or otherwise encumber the area designated as a Special Economic Zone or any right or interest therein, provided that the sale, transfer, assignment, or lease of area within the Ecozone shall be made only in favor of entities who are registered with PEZA pursuant to RA No. 7916; and that as a PEZA –registered enterprise, the income payments to SEDI, for the sale of industrial and commercial lots in Suntrust Ecotown Tanza to PEZA-registered enterprises, are not subject to the creditable withholding tax.

#565-2017
17-7-2017

In reply, please be informed that PEZA-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 Section 24 of RA No. 7916, to wit:

> "**SEC. 24. Exemption from National and Local Taxes** — Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
>
> (a) Three percent (3%) to the National Government;
> (b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.
>
> xxx xxx xxx"

Relative to the above-provision, Section 2.57.5(B)(2) of Revenue Regulations (RR) No. 2-98, as amended, 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 Subic Bay Metropolitan Authority 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;" (Underscoring supplied)

Based on the foregoing, it is clear that the creditable 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 SEDI is an enterprise enjoying exemption from the payment of income tax pursuant to RA No. 7916, its revenues derived directly in connection with its registered activity as

Ecozone Developer/Operator of Suntrust Ecotown Tanza, shall not be subject to the creditable withholding tax prescribed under RR No. 2-98, as amended. It must be emphasized, however, that with regard to SEDI'S sale, transfer, assignment, or lease of commercial or industrial lots within the Ecozone, the same shall be made only in favor of PEZA-registered entities. (*BIR Ruling No. 291-2012* dated April 25, 2012)

It should be understood that SEDI 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 taxes 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], SEDI 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 PEZA 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. 7916, 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

0 1 1 6 6 9

K-1

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