



Republic of the Philippines
DEPARTMENT OF FINANCE
Roxas Blvd. corner P. Ocampo St., 1004 Manila



DOF OPINION NO. 002.2024

MR. ROLANDO LEDESMA MACASAET
President and Chief Executive Officer
Social Security System
East Avenue, Diliman, Quezon City

**SUBJECT: REQUEST FOR REVIEW OF BUREAU OF INTERNAL
REVENUE RULING NO. M-046-2024**

Dear **President and CEO Macasaet**:

This resolves the Request for Review filed before the Department of Finance (DOF) requesting that Bureau of Internal Revenue (BIR) Ruling No. M-046-2024 dated 21 February 2024, wherein the BIR ruled that the proposed auction of a Promissory Note (PN) issued to the Social Security System (SSS) is subject to Value-Added Tax (VAT), be reversed and set aside.

Pursuant to DOF Department Order No. 007-02,¹ a taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance.² This Department notes that you received the subject BIR Ruling on 22 February 2024, and filed a Request for Review before the DOF on 19 March 2024. Thus, the subject Request for Review was filed within the prescribed period.

Merits of the Case

In your Request for Review, you cited that Republic Act (R.A.) No. 11199³, otherwise known as the "Social Security Act of 2018", which took effect on 05

¹ Providing for the Implementing Rules of the First Paragraph of Section 4 of the National Internal Revenue Code of 1997, repealing for this purpose Department Order No. 005-99 and Revenue Administrative Order No. 1-99.

² Section 3 of DO No. 007-02.

³ An Act Rationalizing and Expanding the Powers and Duties of the Social Security Commission to Ensure the Long-Term Viability of the Social Security System, Repealing for the Purpose Republic Act No. 1161, as Amended by Republic Act No. 8282, Otherwise Known as the "Social Security Act of 1997".

March 2019, repealed R.A. No. 8282 and thus, restored the exemption of SSS from VAT. The law provides:

Section 16. Exemption from Tax, Legal Process and Lien. — All laws to the contrary notwithstanding, the SSS and all its assets and properties, all contributions collected and all accruals thereto and income or investment earnings therefrom as well as all supplies, equipment, papers or documents shall be exempt from any tax, assessment, fee, charge, or customs or import duty; and all benefit payments made by the SSS shall likewise be exempt from all kinds of taxes, fees or charges, and shall not be liable to attachments, garnishments, levy or seizure by or under any legal or equitable process whatsoever, either before or after receipt by the person or persons entitled thereto, except to pay any debt of the member to the SSS. No tax measure of whatever nature enacted shall apply to the SSS, unless it expressly revokes the declared policy of the State in Section 2 hereof granting tax-exemption to the SSS. Any tax assessment imposed against the SSS shall be null and void. *(Emphasis and underscoring supplied)*

The BIR Ruling held that the proposed auction of the PN is subject to VAT due to the explicit revocation of the VAT exemption of the SSS in R.A. No. 10963, otherwise known as the “Tax Reform for Acceleration and Inclusion” (TRAIN) Law:

Section 86. Repealing Clause. — The following laws or provisions of laws are hereby repealed and the persons and/or transactions affected herein are made subject to the VAT provision of Title IV of the NIRC, as amended:

(q) Sections 2 and 16, insofar as VAT exemption is concerned, of R.A. 8282 or the Social Security Act of 1997;

The Ruling

After careful consideration of the facts and laws applicable to the case, the DOF holds that the proposed auction of the PN issued to SSS is not subject to VAT.

SSS is a government-owned and -controlled corporation created by R.A. No. 1161 which was subsequently amended by R.A. No. 8282 and R.A. No. 11199.

Both R.A. No. 1161 and R.A. No. 8282 contain provisions exempting the SSS from all kinds of taxes, fees, and charges. Subsequently, the VAT exemption of SSS was later explicitly removed by the TRAIN Law which took effect on 01 January 2018. Then more recently, its VAT exemption was restored with the enactment of R.A. No. 11199 which took effect on 05 March 2019.

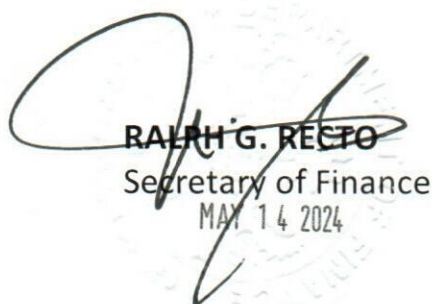
Given the foregoing, this Department is of the position that the proposed auction of the PN issued to SSS is not subject to VAT in accordance with the provisions of R.A. No. 11199. This Department notes that Section 16 of R.A. No. 11199 is an exact restatement of Section 16 of R.A. No. 8282. Thus, the enactment of R.A. No. 11199, specifically the inclusion of Section 16 thereof, repealed the pertinent portion of R.A. No. 10963, and demonstrates the clear legislative intent to restore the VAT exemption of SSS.

Equally important, Section 33 of R.A. No. 11199 is explicit that “Republic Act No. 1161, Republic Act No. 8282, and all other laws, proclamations, executive orders, rules and regulations and parts thereof” inconsistent with R.A. No. 11199 are repealed, modified or amended accordingly.

In view of the foregoing, this Department resolves to REVERSE BIR Ruling No. M-046-2024 and holds that the proposed auction of the PN issued to the SSS is not subject VAT.

Thank you.

Very truly yours,


RALPH G. RECTO
Secretary of Finance
MAY 14 2024



Copy furnished: **ROMEO D. LUMAGUI, JR.**
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