February 3, 2021

BIR RULING NO. VAT-014-21

Section 108 (B)(2), NIRC; BIR Ruling No. 1065-18; BIR Ruling No. 134-18; BIR Ruling No. 413-12; BIR Ruling No. 455-11

Ortiz & Bandon Law Offices
Unit 2502D 25th Floor, West Tower
PSE Center, Exchange Road
Ortigas Center, Pasig City

Attention: *AAA*

Gentlemen :

This refers to your letter dated September 9, 2019 requesting on behalf of your client, TSQ Drafting Services ("TSQ") for confirmation of your opinion that your client's transactions with Mabuhay Telecom, LLC are subject to value-added tax (VAT) at the rate of zero percent (0%) pursuant to Section 108 (B) (2) of the National Internal Revenue Code of 1997, as amended by Republic Act (RA) No. 10963 (NIRC, as amended).

It is represented that TSQ, with Taxpayer Identification Number 000-000-000-000, is a single proprietorship registered as VAT taxpayer with Revenue District Office No. 043. It is engaged in the business of providing drafting services and is owned and managed by BBB. On February 1, 2018, TSQ entered into a Master Service Agreement with Mabuhay Telecom, LLC ("Mabuhay"), a non-resident corporation based in the United States of America (USA) and with business address at 6212 Pine Meadow Lane, McKinney, Texas 75070, to render drafting services for individual work projects in the USA to be subcontracted by Mabuhay to TSQ. In consideration for its services, TSQ will be paid in US dollars for each project awarded by Mabuhay. The Agreement remains valid until terminated in writing by both parties.

Since the effectivity of the Agreement, TSQ has been awarded work projects and is expected to regularly receive work orders from Mabuhay and be paid in US dollars for future

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drafting services.

Based on the foregoing facts, you now request for confirmation that all payments received by TSQ for providing drafting services to Mabuhay pursuant to the Agreement are subject to VAT at zero percent (0%) rate pursuant to Section 108 (B) (2) of the NIRC, as amended.

In support of your request, you submitted the following documents:

1. BIR Certificate of Registration of TSQ;

2. Master Service Agreement between TSQ and Mabuhay Telecom, LLC;

3. Certificate of Inward Remittance from Bank of the Philippine Islands; and

4. Certification of Non-Registration of Company issued by the Securities and Exchange Commission (SEC) to Mabuhay Telecommunications, Inc.

In reply, please be informed that Section 4.108-5 (b) (2) of Revenue Regulations (RR) No. 16-2005 states that:

> "(b) Transactions Subject to Zero Percent (0%) VAT Rate. — The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:
>
> xxx xxx xxx
>
> (2) Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP";

In BIR Ruling No. 455-11 dated November 16, 2011, this Office stated that in order to qualify for VAT zero rating under the above stated provision, the following requisites must concur:

1. The services must be rendered to persons engaged in business outside the Philippines or to a non-resident foreign clients not engaged in business who are outside the Philippines when the services are performed; and

2. The fees must be paid to the domestic corporation in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

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Accordingly, since the drafting services are rendered by TSQ to Mabuhay, a non-resident company as evidenced by the Certificate of Non-Registration of Company issued by SEC dated September 30, 2019, and paid for in acceptable foreign currency, as evidenced by Bank of the Philippine Islands' Certificate of Inward Remittance with Reference No. 437-2019-0272 dated September 2, 2019, the service fees paid therefor by Mabuhay are subject to zero percent (0%) VAT pursuant to the above-cited laws and regulations. It must be emphasized, however, that the application of the 0% VAT rate on the sale of services of TSQ is not automatic and does not cover all its transactions as it must still show that said transactions fully comply with the above-mentioned requirements. *(BIR Ruling Nos. 1065-18 dated July 12, 2018; 134-18 dated February 8, 2018 and 413-12 dated July 15, 2012)*

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

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