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

Sections 131, 134 & 141 of the Tax Code of 1997, as amended
Revenue Memorandum Circular No. 24-2023
BIR Ruling Nos. 700-19 and 040-00
OT- 015-2024

FEB 22 2024

Philippine Economic Zone Authority
10th floor, Double Dragon Center West Building
DD Meridian Park, Macapagal Avenue, Pasay City

Attention: **Mr. Tereso O. Panga**
Deputy Director General
for Policy and Planning

Gentlemen:

This refers to your request, referred to in this Office by the Large Taxpayers Service (LTS), for exemption from Excise Tax for the importation of Ethyl Alcohol (Ethanol 96%), a raw material used in the production operations of Landel Logistics Corporation (LLC)'s Philippine Economic Zone Authority (PEZA)-registered Ecozone Export Enterprise (EEE) clients.

Documents submitted show that LLC is a PEZA-registered Ecozone Logistics Service Enterprise (ELSE) at the Light Industry & Science Park III-Special Economic Zone with Certificate of Registration No. dated February 07 2005; and that PEZA has issued a certification dated April 18, 2023 in favor of LLC allowing the latter to engage in warehousing/logistics support services, particularly importation, storage, safekeeping of goods for subsequent sale, transfer or disposition to PEZA/BOI-registered export enterprises and to export enterprises operating at the Clark and Subic Economic Zones.

Hence, this request.

At the outset, Revenue Memorandum Circular (RMC) No. 24-2023 in relation to BOI Memorandum Circular No. 2023-001 clarifies that Ecozone Logistics Service Enterprise (ELSE), such as, LLC is considered as an export enterprise as defined under Republic Act (RA) No. 11534 or the CREATE Act, it being engage in activities in support to exporters. It thus follows that LLC is exempt from VAT on importation of goods for subsequent transfer directly to PEZA registered export enterprise, for direct export.

On the issue of excise tax relative to ethyl alcohol, please be informed of the following provisions of the National Internal Revenue Code of 1997 (Tax Code), as amended, which may be applicable in the instant case, to wit:

> *"SEC. 141. Distilled Spirits. — On distilled spirits, subject to the provisions of Section 133 of this Code, an excise tax shall be levied, assessed and collected based on the following schedules:*
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> *xxx xxx xxx*

(B) Effective on January 1, 2021

(1) An ad valorem tax equivalent to twenty percent (22%) of the net retail price (excluding the excise tax and the value-added tax) per proof; and
(2) In addition to the ad valorem tax herein imposed, a specific tax of Twenty pesos (P47.00) per proof liter.

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(F) In addition to the ad valorem tax herein imposed, the specific tax imposed under this Section shall be increased by six percent (6%) every year thereafter, effective on January 1, 2025, through revenue regulations issued by the Secretary of Finance.

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This tax shall be proportionally increased for any strength of the spirits taxed over proof spirits, and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirits, or transformed into any other substance either in the process of original production or by any subsequent process.

***'Spirits or distilled spirits' is the substance known as ethyl alcohol**, ethanol or spirits of wine, including all dilutions, purifications and mixtures thereof, from whatever source, by whatever process produced, and shall include whisky, brandy, rum, gin and vodka, and other similar products or mixtures."*

Section 131 of the same Code provides for the payment of excise taxes on imported articles, to wit:

"SEC. 131. Payment of Excise Taxes on Imported Articles. —

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(B) Rate and Basis of the Excise Tax on Imported Articles. — Unless otherwise specified, imported articles shall be subject to the same rates and basis of excise taxes applicable to locally manufactured articles."

Based thereon, imported spirits or distilled spirits are subject to an excise tax at the same rates and basis applicable to similar products locally manufactured. While Section 141 considered ethyl alcohol as substance of spirits or distilled spirits, it can be clearly gleaned that the law pertains to those products of ethyl alcohol which are fit for human consumption.

On the other hand, Section 134 Chapter II of the Tax Code, as amended, provides for the exemption or conditional tax-free removal of Domestic Denatured Alcohol, to wit:

"CHAPTER II

EXEMPTION OR CONDITIONAL TAX-FREE REMOVAL OF CERTAIN ARTICLES

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"SEC. 134. Domestic Denatured Alcohol. — Domestic alcohol of not less than one hundred eighty degrees (180°) proof (ninety percent (90%) absolute alcohol) shall, when suitably denatured and rendered unfit for oral

intake, be exempt from the excise tax prescribed in Section 141: Provided, however, That such denatured alcohol shall be subject to tax under Section 106 (A) of this Code: Provided, further, That if such alcohol is to be used for motive power, it shall be taxed under Section 148 (d) of this Code: Provided, finally, That any alcohol, previously rendered unfit for oral intake after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of this Code and such tax shall be paid by the person in possession of such reprocessed spirits."

Evidently, when the domestic alcohol falls under the purview of Section 134 hereof, such as: (1) the domestic alcohol is not less than 180° proof or 90% absolute alcohol, (2) the same is suitably denatured; and (3) it is rendered unfit for oral intake, no excise tax may be imposed thereon. However, when such denatured alcohol is to be used for motive power, it shall be taxed under Section 148 (D) of the Tax Code, as amended, or when any alcohol previously rendered unfit for oral intake or after denaturing but subsequently rendered fit for oral intake after undergoing fermentation, dilution, purification, mixture or any other similar process shall be taxed under Section 141 of the Tax Code, as amended.

In summary, to be entitled to the excise tax exemption under Section 134, the following requisites must be present:

1) That the domestic alcohol is not less than 180° proof or 90% absolute alcohol;
2) That the same is suitably denatured; and
3) That it is rendered unfit for oral intake.

In the instant case, since it clearly shows that the subject goods (alcohol) were imported and not domestically manufactured/acquired, it is irrelevant to ascertain the degree of proof or the rate of the alcohol content containing the product. Section 134 of the Tax Code, as amended, categorically pertains to domestic alcohol and nothing in the said code mentioned about imported alcohol. Nevertheless, in case where the said product is to be used for motive power or subsequently rendered fit for oral intake, through fermentation, dilution, purification, mixture or any other similar process, it shall be taxed under Section 148 (D) and Section 141, respectively, of the Tax Code, as amended, pursuant to the provision of Section 131 (B) of the same code.

In view of all the foregoing, this Office hereby holds that the request for exemption from the imposition of Excise Tax on importation by Landel Logistics Corporation of Ethyl Alcohol is hereby denied for lack of legal basis.

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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