REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Sec. 108 (B) (2) of the National Internal Revenue Code of 1997, as amended; RR 4-2007
BIR Ruling No. VAT-003-2023; BIR Ruling No. 413-12; VAT Ruling No. 010-05; VAT ruling No. 018-05; G.R. No. 215159
OT-050-2023

MAY 2 5 2023

DEFENSE THREAT REDUCTION AGENCY
Defense Threat Reduction Office
Embassy of the United States
1201 Roxas Boulevard, Ermita Manila

Attention: **LT. COL. WALTER PRATT**
DTRO Chief

Gentlemen:

This refers to your request for confirmation of your opinion that any Filipino entity who renders service to the Defense Threat Reduction Agency (DTRA) which is a non-resident foreign corporation, not doing business in the Philippines, and pays the former in an acceptable foreign currency, is subject to a zero-rated value added tax (VAT) rate.

It is represented that the DTRA, through Endec, Inc., has previously received a ruling from this office, in particular, BIR Ruling No. VAT-003-2023, confirming that Endec, Inc.'s services rendered to DTRA through its Cooperative Threat Reduction Integrating Contract (CTRIC) task order being implemented by your U.S.-based prime contractor, Black and Veatch Special Projects Corp. (BVSPC), is subject zero percent VAT.

However, said ruling was issued in favor of Endec, Inc. and not DTRA itself. Hence, this request for a ruling in your favor that could apply in a more general way to all DTRA projects in the future since DTRA has ongoing aid projects with the National Coast Watch Center/System and other Agencies within the Philippines. The ruling will also be shared with other U.S.-based contractors who will educate their Philippine-based contractors as to how to apply for this VAT relief for future consulting services provided. It will also allow the continued investment by DTRA into the Philippines for projects addressing national security, human and animal health, maritime domain awareness, countering Weapons of Mass Destruction and nonproliferation efforts, and biological safety and chemical security and elimination programs.

In reply thereto, please be informed that Section 108 (B) (2) of the National Internal Revenue Code (Tax Code) of 1997, as amended, states that –

"(B) Transactions subject to Zero Percent (0%) Rate. –

The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

(1) x x x;

(2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not 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 or which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

xxx xxx xxx"

Applying the afore-cited provisions of the law to the case under consideration, this Office holds that the services rendered by any Filipino VAT registered entity towards DTRA or any of its foreign based contractors, which are paid for in acceptable foreign currency, may qualify for VAT zero-rating pursuant to Section 108 (B) (2) of the Tax Code of 1997, as amended, as implemented by Section 4.108-5 (b) (2) of RR No. 16-2005, as amended by RR No. 4-2007, provided, that the same is remitted inwardly and accounted for in accordance with the rules and regulations of the BSP. (*BIR Ruling No. 134-18 dated February 8, 2018, BIR Ruling No. 413-12 date June 15, 2012*) In Chevron Holdings, Inc. vs. CIR, G.R. No. 215159, July 5, 2022, the Supreme Court held that the requirements for VAT zero-rating in Section 108 (B) (2) that must concur are:

(1) Services rendered should be other than processing, manufacturing or repacking of goods;

(2) Services are performed in the Philippines;

(3) Service recipient is a person engaged in business conducted outside the Philippines or a non-resident person not engaged in a business which is outside the Philippines when the services are performed; and

(4) Services are paid for in acceptable foreign currency inwardly remitted and accounted for in conformity with BSP rules and regulations.

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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