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

BIR Ruling No. 1242-18
BIR Ruling No. VAT-002-21
Sec.8, RA 8436, as amended by RA 9369;
VAT – 085 - 2023

SEP 22 2023

COMMISSION ON ELECTIONS
Palacio del Gobernador Building,
General Luna St. cor Andres Soriano, Jr. Avenue,
Intramuros. Manila

Attention: **GEORGE ERWIN M. GARCIA**
Chairman

This refers to your letter request for a confirmatory ruling on the tax exemption of the Commission on Elections (COMELEC) in relation to its procurement: by purchase, lease, rent, or other forms of acquisition of goods, supplies, equipment, materials, software, facilities, and other services, from local or foreign sources to be used in the conduct of the May 2025 Automated National and Local Elections (2025 Automated NLE).

It is represented that the COMELEC is an independent Constitutional Commission whose primary mandate under the 1987 Constitution is to enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, and recall with address at Palacio del Gobernador Building, General Luna St. corner Andres Soriano, Jr. Avenue, Intramuros, Manila.

Relative thereto, the COMELEC will be procuring the following goods and services to be used in the 2025 Automated NLE:

1	Automated Counting Machines (ACM)
2	Election Management System with Hardware and Software
3	Consumables of the ACM which include, but are not limited to, marking devices, memory storage devices, thermal paper rolls
4	Peripherals of ACM which include, but are not limited to, security tokens, headset, modems, barcode scanner
5	Ballot paper and ballot printing and other related ballot goods and services
6	Ballot Boxes
7	Technical Support
8	Laptops, printers, and toners
9	International Certification Entity
10	Servers and workstations
11	Secure Electronic Transmission Services
12	Deployment of Election Equipment, Peripherals, Forms, Supplies, and Paraphernalia with Provision of Warehousing Services including Reverse Logistics for Local and Overseas

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13	Provision for Warehouse Facility for the Ballot Paper Rolls and Printed Official Ballots with Hauling Services
14	COMELEC Election Monitoring and Action Center
15	Official Ballot Packaging Services
16	Election and Canvassing Accountable and Non-Accountable Forms and Supplies for use by the Electoral Boards and Boards of Canvassers
17	Automated Election System working groups/committees' forms, supplies and materials
18	Printing services for Election Day Computerized Voter's List
19	Command and Media Centers
20	Random Manual Audit Forms, supplies, and materials
21	Online Voting and Counting System
22	Other automated election-related goods and services as the COMELEC may deem necessary.

In light of the foregoing, the COMELEC now requests for confirmation that the procurement of goods and services, from local or foreign sources, that will be used in the 2025 Automated NLE are exempt from value-added tax (VAT), in accordance with Section 8 of Republic Act (RA) No. 8436, as amended, and that the COMELEC is not required to deduct and withhold five percent (5%) final VAT.

In reply, please be informed that RA No. 8436, as amended by RA No. 9369, provides for the COMELEC's exemption from taxes on its procurement of goods and services, in relation to the automated elections, viz.:

> "SEC. 12. Procurement of Equipment and Materials. – To achieve the purpose of this Act, **the Commission is authorized to procure, in accordance with existing laws, by purchase, lease, rent or other forms of acquisition, supplies, equipment, materials, software, facilities and other services, from local or foreign sources free from taxes and import duties,** subject to accounting and auditing rules and regulations. With respect to the May 10, 2010 elections and succeeding electoral exercises, the system procured must have demonstrated capability and been successfully used in a prior electoral exercise here or abroad. Participation in the 2007 pilot exercise shall not be conclusive of the system's fitness." (Emphasis supplied)

In view of the foregoing, this Office confirms that the COMELEC is exempt from the 12% VAT on its local purchases of goods and services that will be used in the 2025 Automated NLE. Accordingly, the suppliers/sellers of goods and services to the COMELEC cannot shift or pass on any VAT to COMELEC on the latter's purchases of goods and services that will be used in the 2025 Automated NLE. Moreover, importation by the COMELEC of goods that will be used in the aforesaid automated elections is also exempt from VAT.

It must be emphasized, however, that the exemption of the COMELEC from VAT on its purchase of goods as well as its procured services is limited only to its purchases and/or importation of goods and services enumerated above during the period beginning September 2023 until completion of the post-election activities; provided further, that the aforesaid purchases and/or importation of goods and services will be used in, or directly related to, the conduct of the 2025 Automated NLE.

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Consequently, any purchase of goods and services directly related to the 2025 Automated National and Local Elections will not be subject to the 5% creditable withholding VAT in accordance with Section 114 (C) of the National Internal Revenue Code of 1997, as amended, and as implemented by Section 4.114 (2) (a) of Revenue Regulations No. 16-2005, as amended, to wit:

> "Sec. 4.114-2. Withholding of VAT on Government Money Payments. – (a) The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) shall, before making payment on account of each purchase of goods and/or services which are subject to the value-added tax imposed in Secs. 106 and 108 of this Code, deduct and withhold a final value-added tax at the rate of five percent (5%) of the gross payment thereof: provided, that beginning January 1, 2021, the VAT withholding system under this subsection shall shift from final to a creditable system."

It must be emphasized, however, that purchases of goods and services not related to the 2025 Automated NLE shall be subject to the above-preceding provision.

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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