REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 150 (C) and 164 of the Tax Code of 1997, as amended	OT- 089-2023
Date:	OCT 19 2023

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36 / 927-09-63

SECHANG PHILIPPINES CORPORATION
Unit D, 2nd Floor, TSP Building I, Km. 30
National Highway, Tunasan, Muntinlupa City

Attention: **Mr. Benito M. Virtucio**
President

Gentlemen:

This refers to your request for confirmation of your opinion that the importation of One (1) unit E26 Work Boat/26ft. Landing Craft Boat (E26) is exempt from excise tax.

Documents submitted show that Sechang Philippines Corporation (SPC) entered into a contract with SMC Consolidated Power Corporation (SMC) for the supply and delivery of One (1) unit E26; that E26 will be used for oil spill recovery and transportation of equipment for SMC's operation of their power plant in Limay, Bataan; that based on the product manual, E26 can be employed in a variety of roles, such as, fast response and supporting marine operations (oil spills, rescue, fire-fighting, etc.); that the Maritime Industry Authority (MARINA) issued a letter dated July 27, 2020 for its importation; that it was inspected on November 10, 2020 by MARINA and was found in satisfactory condition; that an Authority to Release Imported Goods (ATRIG) dated October 30, 2020 was issued by the Bureau exempting the importation of the E26 from the payment of excise tax but subjecting the same to value-added tax (VAT); and that a surety bond was also posted as a condition for the exemption from excise tax pending the issuance of Bureau of Internal Revenue (BIR) ruling.

Hence, this request.

In reply, please be informed that Section 150 (C) of the National Internal Revenue Code (Tax Code) of 1997, as amended, provides that:

> *"**SEC. 150. Non-Essential Goods.** – There shall be levied assessed and collected a tax equivalent to twenty percent (20%) based on the wholesale price or the value of importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:*
>
> *xxx xxx xxx*
>
> *(c) Yachts and other vessels intended for pleasure or sports."*

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Clearly, the law categorically provides that only vessels intended for pleasure or sports are considered as non-essential goods subject to an excise tax rate of 20% under the Tax Code of 1997, as amended.

Section 164 of the same Tax Code of 1997 concluded that excisable apparatus or mechanical contrivance refers only those specially for the manufacture of articles subject to excise tax. Pursuant thereto, Revenue Memorandum Order (RMO) No. 55-99 was issued to provide for the uniform procedures and documentary requirements for the importation of all articles subject to excise tax, as well as, the raw materials and apparatus, or mechanical contrivances specially used for manufacturing excisable articles.

Considering that E26 is to be used for oil spill recovery and transportation of equipment in the operation of SMC's power plant in Limay, Bataan, and not for pleasure or sports, this Office is of the opinion that the importation of E26 is exempt from the payment of Excise Tax. Such importation, however is subject to VAT.

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 null and void.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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