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

Revenue Regulations No. 4-2022		
OT-	0 9	5 - 2 0 2 3

Person to Contact: Chief, Law & Legislative Division
Tel Nos. 8981-7328 / 8981-7327

Date: NOV 0 9 2023

NORTH QUEEN BUILDERS AND DEV. CORP.
KM 628 Racat Rapuli (Punti)
Sta. Ana Cagayan. Philippines

Attention: **DARLENE JAYELLA LEGASPI**
President and CEO

Gentlemen:

This refers to your request for a confirmatory ruling that North Queen Builders and Development Corporation ("North Queen"), an enterprise registered with Cagayan Economic Zone Authority ("CEZA"), is entitled to exemption from payment of all local and national taxes, including excise and Value Added Tax ("VAT") pursuant to Republic Act ("RA") No. 7922, otherwise known as "Cagayan Special Economic Zone Act of 1995". Hence, it shall be entitled to issuance of Authority to Release Imported Goods ("ATRIG") for its importation without payment of excise tax and VAT.

It is represented that North Queen is a corporation with principal address at KM 628 Racat Rapuli (Punti) Sta. Ana, Cagayan. It is engaged in general construction and importation of petroleum products and is registered within the Cagayan Special Economic Zone and Freeport ("CSEZFP"). It was issued with a Certificate of Registration and Tax Exemption ("CRTE") by CEZA.

North Queen intends to import petroleum products particularly diesel product through a load port sale transaction. It was resorted to considering that there is no available terminal, storage facility or oil depot in Cagayan Free Port and actual unloading of products via oil tanker vessel is not feasible. Thus, the entry port will be at Subic Bay Metropolitan Authority ("SBMA") through the storage facility of Philippine Coastal Storage and Pipeline Corporation for transshipment to CSEZFP.

In reply, Section 295(F) of the National Internal Revenue Code ("Tax Code") of 1997, as amended by RA No. 11534 or CREATE Act, states that:

> ***"SEC. 295. Conditions of Availment.*** *- The tax incentives in the preceding Section shall be governed by the following rules:*
>
> *-xxx xxx xxx-*
>
> *(F) Persons who directly import petroleum products defined under Republic Act No. 8479, otherwise known as the 'Downstream Oil Industry Deregulation Act of 1998', for resale in the Philippine customs territory and/or in free zones*

OT- 095 - 2023
NOV 09 2023

as defined under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, shall not be entitled to the foregoing tax and duty incentives, and shall be subject to appropriate taxes imposed under this Code.

Any law to the contrary notwithstanding, the importation of petroleum products by any person, including registered business enterprises, shall be subject to the payment of applicable duties and taxes as provided under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code, respectively, upon importation into the Philippine customs territory and/or into free zones as defined under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act:

Provided, That the importer can file for claims for the refund of duties and taxes applicable under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code, respectively, for direct or indirect export of petroleum products, and/or other tax-exempt sales under the Customs Modernization and Tariff Act and other special laws within the period provided therein:

Provided, further, That the importers who subsequently export fuel, subject to the appropriate rules of the fuel marking program, may apply for a refund of duties and taxes, as applicable under Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act, and this Code."

In relation thereto, Section 3 of Revenue Regulations ("RR") No. 4-2022, implementing Section 295(F) of the Tax Code of 1997, as amended, states:

"Section 3. Tax Treatment of All Petroleum and Petroleum Products Entered and Imported into Freeport Zones and Economic Zones, or Locators or Other Persons/Entities: Refund of Tax Paid: Authority to Release Imported Goods (TRIG) and Other Administrative Requirements. –

The VAT and Excise tax which are due on all petroleum and petroleum products that are entered and/or imported into Zones shall be paid by the party which entered the same or the importer thereof, as the case may be, to the Bureau of Customs (BOC) prior to any and all subsequent Transfer, Transport, and/or Withdrawal of the same after its entry or importation."

Thus, upon the effectivity of CREATE Act, the importation of petroleum and petroleum products into the Freeport Zones and Economic Zones is now subject to applicable taxes. North Queen, however, can file for refund of taxes for direct and indirect export of petroleum products and other tax-exempt sales as provided under Section 295(F) of the Tax Code of 1997, as amended, and as implemented by RR No. 4-2022.

Please be guided accordingly.

Very truly yours,

KI-

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
027152