June 8, 2021

BIR RULING NO. VAT-200-21

RA No. 8047; Sec. 109 (1) (R), Tax Code;
BIR Ruling No. 722-2019; BIR Ruling No.
109-2018

Studio Graphics Corp.
1088 Del Monte Avenue corner Mendoza Street
San Francisco Del Monte, Quezon City

Attention: *AAA*

_____

BBB

_____

Gentlemen :

This refers to your letter dated October 5, 2020, requesting for confirmation that the Printing and Delivery of Grade 3 Araling Panlipunan for the Department of Education (DepEd) under Public Bidding No. 19-037-9 is exempt from value-added tax (VAT).

It is represented that Studio Graphics Corp., [1] with Taxpayer Identification Number (TIN) _____, is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) with Company Registration No. _____; and that it is also registered with the National Book Development Board (NBDB) with Certificate of Registration No. 0788 valid until August 31, 2021 as a Book Printer in accordance with the provisions of Republic Act (RA) No. 8047 otherwise known as the "Book Publishing Industry Development Act."

The Department of Budget and Management-Procurement Service (DBM-PS) through the DepEd procured the services of Studio Graphics Corp. for the printing and delivery of Grade 3 Araling Panlipunan books evinced on Public Bidding No. 19-037-9. In view thereof, DBM-PS withholds 5% on the payments made to Studio Graphics Corp. Hence, this request.

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In reply, please be informed that Section 12 of RA No. 8047 provides tax incentives to persons or entities engaged in the book industry, *viz.*:

> *"Section 12. Incentives for Book Development . . .*
>
> xxx xxx xxx
>
> *Books, magazines, periodicals, newspapers, including book publishing and printing, as well as its distribution and circulation, shall be exempt from the coverage of the expanded value added tax law."* (Underscoring supplied)

Moreover, Section 109 (1) (R) of the National Internal Revenue Code (Tax Code) of 1997, as amended, states that:

> *"Sec. 109. Exempt Transactions. —*
>
> *(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*
>
> xxx xxx xxx
>
> *(R) Sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin, which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;"*

In relation thereto, Section 4.109-1 (B) (r) of Revenue Regulations (RR) No. 16-2005, as amended, states that:

> *"Section 4.109-1. VAT Exempt Transactions. —*
>
> xxx xxx xxx
>
> *(B) Subject to the provisions of Section 4.109.2 hereof, the following transactions shall be exempt from VAT:*
>
> xxx xxx xxx
>
> *(r) Sale, importation, printing or publication of books and any newspaper, magazine, review, or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;"*

In Revenue Memorandum Circular (RMC) No. 75-2012 dated November 22, 2012, this Office made a clarification on the VAT exemption granted under Section 109 (1) (R) of

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the Tax Code of 1997, as amended, to wit:

> 1. A newspaper, magazine, review or bulletin must be: (1) printed or published at regular intervals; (2) available for subscription and sale at fixed prices; and (3) are not principally devoted to the publication of paid advertisements.
>
> 2. The terms "book," "newspaper," "magazine," "review" and "bulletin" as used in the provision refer to printed materials in hard copies. They do not include those in digital or electronic format or computerized versions, including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software.

In view of the foregoing, this Office confirms that the Studio Graphics Corp. is exempt from the twelve percent (12%) VAT on its book printing, as well as its distribution of Grade 3 Araling Panlipunan for the DepEd pursuant to Public Bidding No. 19-037-9. Accordingly, the DBM-PS shall no longer withhold and remit to the Bureau of Internal Revenue (BIR) the five percent (5%) final withholding VAT mandated under Revenue Memorandum Order (RMO) No. 23-2014, by reason of Section 109 (1) (R) of the Tax Code of 1997, as amended. Apropos, the operation of Section 4.114 (2) (a) of Revenue Regulations (RR) No. 16-2005, as amended, *viz*.:

> *"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 of 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."*

finds no application to the transaction between Studio Graphics Corp. and DBM-PS due to the exemption granted to the former predicated under the Section 109 (1) (R) of the Tax Code of 1997, as amended.

It is worth noting that if Studio Graphics Corp. is engaged in other non-exempt activities such as the printing of brochures, bookbinding, engraving, stereotyping, electrotyping, lithographing of various reference books, trade books, journals and other literary works, said transactions are subject to VAT, and the taxpayer shall be required to register its business as VAT business entity and must issue a separate VAT invoice/receipt therefor to record the same. Also, sale of books, newspapers, magazines, reviews and bulletins in digital or electronic format or computerized versions, including but not limited to e-books, e-journals, electronic copies, online library services, CDs and software shall be subject to VAT. [2]

Likewise, VAT is an indirect tax payable by the seller and not the purchaser of goods. Being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or

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lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to Studio Graphics Corp. does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (1) (R) of the Tax Code of 1997, as amended, to avoid the passing on or shifting of the VAT. Hence, its purchase of goods, properties, or services from its suppliers shall nevertheless be subject to the 12% VAT pursuant to Section 107 of the same Code. [3]

Insofar as the amounts withheld by the DBM-PS and already remitted to the BIR, Studio Graphics Corp. should file a claim for VAT refund pursuant to Revenue Memorandum Circular (RMC) No. 47-2019 which provides for the uniform guidelines and revised mandatory requirements for the processing and grant of VAT refund application. However, amounts withheld by the DBM-PS but not yet remitted to the BIR, Studio Graphics Corp. should file its claim for VAT refund to the DBM-PS.

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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Doing business under the name and style of Studio Graphics Educational Materials.
2. BIR Ruling No. 722-19 dated December 2, 2019.
3. BIR Ruling No. 109-18 dated January 31, 2018.

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