June 2021

BIR RULING NO. VAT-204-21

Section 109 (1) (T) of the Tax Code of 1997,
as amended; BIR Ruling No. 1049-2018

Subic Air, Inc.
Hangar Building 8324, International Airport,
Subic Bay Freeport Zone, Subic, Zambales

Attention: *AAA*

Gentlemen :

This refers to your request on behalf of Subic Air, Inc. [1] for tax exemption on the sale of five (5) aircrafts and acquisition of aircraft/s other than those described hereunder pursuant to Section 109 (1) (T) of the National Internal Revenue Code (Tax Code) of 1997, as amended.

It is represented that Subic Air, Inc., with Tax Identification Number (TIN) _____ is a domestic corporation organized and registered with the Securities and Exchange Commission (SEC) under Company Registration No. _____; that it is a licensed aircraft operator thru its Air Operator Certificate (AOC) issued by the Civil Aviation Authority of the Philippines (CAAP), authorized to perform commercial air operations subject to restrictions on area of operations and special limitations as defined in its Operations Manual and Part 9 of the Philippines Civil Aviation Regulations, series of 2008; that it is desirous in acquiring five (5) aircrafts currently owned by World Aviation Corporation (WAC) with the following descriptions:

Registry	Manufacturer	Model/Serial
RP-C4926	AIRBUS HELICOPTERS	EC130B4/SN:4936
RP-C3088	ROBINSON HELICOPTER COMPANY	R44 II/SN:12719
RP-C2226	TEXTRON AVIATION	B300/SN:FL-563
RP-C2222	AIRBUS HELICOPTERS	AS365N3/SN:6440
RP-C8226	AIRBUS HELICOPTERS	EC145/SN:9274

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and that on May 19, 2021, the Civil Aeronautics Board (CAB) granted the request of Subic Air, Inc. for the extension of its Certificate of Public Convenience and Necessity (CPCN) to operate Domestic Non-Scheduled (air taxi) Air Transportation Services valid for a period of Five (5) years from January 27, 2021 to January 26, 2026.

In reply, please be informed that Section 109 (1) (T) of the Tax Code of 1997, as amended, provides as follows:

> *"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
>
> *(T)* [2] *Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;"*

Based on the above-cited provision, the sale, importation or lease of an aircraft destined for domestic transport or international transport operations shall be exempt from value added tax (VAT). In relation thereto, Section 4.109-1 (B) (1) (t) of Revenue Regulations (RR) No. 16-2005, as amended, which implements the above-quoted provision, states that:

> *"SECTION 4.109-1. VAT-Exempt Transactions. —*
>
> *(B) Exempt transactions. —*
>
> *(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:*
>
> xxx xxx xxx
>
> *(t) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations; Provided, however, that the exemption from VAT on the importation and local purchase of passenger and/or cargo vessels shall be subject to the requirements on restriction on vessel importation and mandatory vessel retirement program of Maritime Industry Authority (MARINA)."*

Accordingly, the acquisition of five (5) aircrafts with Aircraft Model/Serial Nos.

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EC130B4/SN:4936, R44 II/SN:12719, B300/SN:FL-563, AS365N3/SN:6440, and EC145/SN:9274 by Subic Air, Inc. for its domestic non-scheduled (air taxi) air transportation services is exempt from the payment of VAT.

Anent to the acquisition by Subic Air, Inc. of any aircraft/s within the period covering the validity of its CPCN, please be informed that this office may not issue ruling on queries involving assumed transactions pursuant to Section 3 of Revenue Memorandum Circular (RMC) No. 9-2014.

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,

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

Footnotes

1. Formerly: Subic International Air Charter, Inc.
2. Renumbered by Republic Act (RA) No. 10378.

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