REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Sections 109 (1) (R) of the Tax Code of 1997, as amended; RR No. 16-2005, as amended	000-00 VAT-322.2022	

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

Date: JUN 29 2022

MEGATEXTS PHIL., INC.
Units 1-3, 101 Don Ramon Aboitiz Street
6000 Cebu City

Attention: **Jean T. Lim**
President

Gentlemen:

This refers to your request for confirmation that the sale of educational materials or products both in printed and digital/electronic formats is exempt from value-added tax (VAT).

It is represented that MegaTEXTS Phil., Inc. ("MegaTEXTS"), with Taxpayer Identification Number (TIN) [redacted], is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines; and that it is registered with the National Book Development Board (NBDB) with Certificate of Registration No. [redacted] valid until August 30, 2023 as a Book Publisher (Print and Digital), Book Seller (Retail, Reseller and Wholesale), and Commercial Book Importer in accordance with the provisions of Republic Act (RA) No. 8047 otherwise known as the "Book Publishing Industry Development Act."

Primarily, MegaTEXTS is engaged in the business of selling educational products as well as the exclusive distributor in the Philippines of online academic library sources, e-Books, and e-Journals of various foreign publishers. The products that MegaTEXTS sells are described as follows:

> 1. PRINTED BOOKS – Physical form of books, comprising of pages or sheets of paper fastened together inside the cover (often cardboard). It is a literary work of fiction and non-fiction, which contains information, stories, poetry, or similar stuff;
>
> 2. ONLINE ACADMIC LIBRARY RESOURCES – Online library resources in which collections are stored in digital formats and accessible by computer and similar electronic devices. The digital content maybe stored locally, or accessed remotely via the internet or computer networks;

VAT- 322 . 2022
JUN 29 2022

3. E-BOOKS – Electronic books which are the digital media equivalent of conventional printed books. Such documents are either read on personal computers, or on dedicated hardware devices knows as e-book devices or e-book readers; and

4. E-JOURNALS -- Electronic journals or scholarly journals or magazines that can be accessed via electronic transmission. They are specialized forms of electronic documents that will provide materials for academic research and study. These materials are formatted like printed journals or articles and entered into specialized databases which are predominantly available through academic libraries and specialized libraries.

MegaTEXTS claims that the sale of the above items is exempt VAT pursuant to Section 109 (1) (R) of the National Internal Revenue Code (Tax Code) of 1997, as amended. Hence, this request.

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 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, journal, review bulletin, or any such educational reading material covered by the UNESCO Agreement on the Importation of Educational, Scientific and Cultural Materials, including the digital or electronic format thereof: Provided, That the materials enumerated herein are 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. --

VAT-022 . 2022
JUN 29 2022

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, journal, review bulletin, or any such educational reading material covered by the United Nations Educational, Scientific and Cultural Organization (UNESCO) Agreement on the importation of educational, scientific and cultural materials, including the digital or electronic format thereof. Provided, That the materials enumerated herein are not devoted principally to the publication of paid advertisements. Provided further, That the materials enumerated herein are compliant with the requirements set forth by the National Book Development Board pursuant to R.A. No. 8047."

In view of the foregoing, this Office confirms that MegaTEXTS is exempt from the twelve percent (12%) VAT on its sale, importation, printing or publication of books, and any newspaper, magazine, journal, review bulletin, or any such educational reading material covered by the UNESCO Agreement on the Importation of Educational, Scientific and Cultural Materials, including the digital or electronic format thereof, provided that the materials enumerated herein are not devoted principally to the publication of paid advertisements; and are compliant with the requirements set forth by the National Book Development Board pursuant to RA No. 8047.

Accordingly, in case the government made a purchase of MegaTEXTS' products, the former shall no longer withhold and remit to the Bureau of Internal Revenue (BIR) the five percent (5%) creditable 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 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[1] value-added tax at the rate of five percent (5%) of the gross payment thereof."

finds no application to such transaction between MegaTEXTS and the government due to the exemption granted to the former predicated under the Section 109 (1) (R) of the Tax Code of 1997, as amended.

[1] Beginning January 1, 20221, the VAT withholding system on government money payments shifts from final to creditable system.

VAT - 5 - 2 . 2022
JUN 2 9 2022

It is worth noting however that if MegaTEXTS 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.

It bears stressing that 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 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 MegaTEXTS 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.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue
052160

K-1