REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 10349
BIR Ruling No. 396-2014 BIR Ruling No. 397-2014 BIR Ruling No. 398-2014
060-2017 2-17-2017

Triton Communications Corporation
Unit 2706 Antel Global Corporate Center
Julia Vargas Ave., Ortigas Center
Pasig City

Attention: **Darwin Rivera**
President

Gentlemen:

This refers to your letter dated December 4, 2014 requesting, on behalf of Triton Communications Corporation, for tax exemption on the importation of equipment intended for the Armed Forces of the Philippines (AFP).

Documents submitted show that Triton Communications Corporation (TIN:) is a domestic corporation duly registered with the Securities and Exchange Commission (SEC) with SEC Certificate of Registration No. : that Triton Communications Corporation was issued a Notice of Award by the AFP Vice Chief of Staff, upon recommendation of the GHQ Bids and Awards Committee (BAC) 1; that to give effect to said Notice of Award, a Contract Agreement dated September 8, 2014 was executed between Triton Communications Corporation and the AFP whereby the former agreed to provide the latter equipment relative to the Radio Communication Equipment Acquisition Project of the Presidential Security Group (PSG) for an agreed price of P , and that the equipment which will be imported from Malaysia and delivered to the AFP under the Contract Agreement[1] are the following:

Item Description	Quantity
	units
	units
	units
	units
	units
	pcs.
	set
	units
	pcs.

Based on the foregoing, you now request for confirmation that the importation of the above equipment is exempt from VAT pursuant to Section 10 of Republic Act (RA) No. 10349, amending RA No. 7898.

[1] Based on the Delivery Schedule and Notice of Award which form part of the Contract Agreement.

In reply, please be informed that Section 10 of RA 10349, amending RA No. 7898, provides:

> *"SEC. 10. Insert three (3) sections after Section 16 of the same Act which shall now become the new Sections 17, 18 and 19 respectively, which shall read as:*
>
> *'SEC. 17. Exemption from Value-Added Tax and Customs Duties.- The sale of weapons, equipment and ammunitions to the AFP, which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the valued-added tax; Provided, That the importation of the same by the AFP shall likewise be exempt from the value-added tax and customs duties.'*
>
> *xxx xxx xxx"*

Under Section 10 of RA 10349, the sale of weapons, equipment and ammunitions to the Armed Forces of the Philippines (AFP), which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from VAT. Moreover, the importation of the same by the AFP is also exempt from VAT. In relation thereto, the Department of National Defense (DND) issued the Department Circular No. 3 (*Issuing the Implementing Guidelines, Rules and Regulations of the Revised Armed Forces of the Philippines Modernization Act*) dated April 11, 2013 which, among others, defined the term "equipment" as referring to "*all non-expendable items needed to outfit or equip any individual and/or organizations and sub-organizations within the AFP.*" (*BIR Ruling Nos. 396-2014, 397-2014* and *398-2014* dated October 17, 2014)

It is noted that there are two (2) transactions involved in this case. First is the importation by Triton Communications Corporation of the subject equipment from Malaysia, and second is the subsequent sale thereof by Triton Communications Corporation to the AFP. While the sale of equipment to the AFP, which shall be directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, is exempt from VAT, the importation of the same may only be exempt from VAT if the importation is done by the AFP. In the instant case, the importation shall be carried out by Triton Communications Corporation.

Applying the foregoing, this Office rules that the importation by Triton Communications Corporation of the subject equipment from Malaysia is subject to VAT. However, the subsequent sale by Triton Communications Corporation to the AFP of the above-enumerated equipment, which will be used directly and exclusively by the AFP for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from 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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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