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

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| Section 2 (t) of Revenue Bulletin 01-03; |
| BIR Ruling Nos. 082-10 |
| #070-2016 |

2-29-2016
(Date)

**HERMA SHIPYARD INC.**
94 Scout Rallos St.,
Brgy. Sacred Heart,
Quezon City 1103

Attention: ***ATTY. ARCHIVALD F. DE MATA***
Legal Counsel

Gentlemen :

This refers to your letter dated December 11, 2012, requesting for a ruling declaring the transactions covered by contracts that Herma Shipyard Inc. (HSI) is negotiating with its non-resident foreign customers are subject to zero percent (0%) Value-Added Tax.

As represented, HSI (TIN [redacted] is a corporation organized and existing under the laws of the Republic of the Philippines and organized for the purpose of engaging in the general business of building and repair of ships, boats and other kinds of vessels as well as in shipbreaking activities. Per your letter, "HSI enters into contracts with domestic and foreign customers for the construction of vessels and/or fabrication and assembly of vessel parts and equipment. The shipbuilding contracts normally stipulate that the customers have the option to supply the vessel equipment and machineries, while HSI shall supply the labor and other construction materials".

At present, HSI is negotiating a shipbuilding contract with a non-resident foreign customer which requires that the vessel to be built will be delivered to a Philippine resident. Likewise, it is pursuing shipbuilding contracts with non-resident foreign customers wherein HSI shall provide for the labor and raw materials and for the fabrication and assembly of vessel parts and equipment. The ship building contracts shall provide that HSI will be paid in US Dollars or its equivalent in acceptable foreign currency.

HSI opines that the foregoing transactions between HSI and its foreign customers are subject to zero percent (0%) VAT under Section 108 of the 1997 Tax Code, as amended, and implemented under Section 4.108-5 of Revenue Regulations No. 16-2005, which provides:

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**SECTION 4.108-5.** ***Zero-Rated Sale of Services.*** **—**

(a) In general. — A zero-rated sale of service (by a VAT-registered person) is a taxable transaction for VAT purposes, but shall not result in any output tax. However, the input tax on purchases of goods, properties or services related to such zero-rated sale shall be available as tax credit or refund in accordance with these Regulations.

(b) Transactions Subject to Zero Percent (0%) VAT Rate. — The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:

(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines, which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

(2) Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;

(3) xxx xxx xxx

In reply, please be informed that this Office cannot as yet issue a determinative ruling on the above matter considering that the issue is based on hypothetical situation, which is considered as a "No-Ruling Area" pursuant to Section 2 (t) of Revenue Bulletin 01-03. (BIR Ruling No. DA-394-04, dated July 21, 2004; and BIR Ruling No. 082-10, dated October 5, 2010)

Section 2 (t) of Revenue Bulletin 01-03 provides:

"SECTION 2. List of No-Ruling Areas. — The following shall hereby be construed and identified as "No-Ruling Areas":

t) Request for rulings on issue/s or transactions based on hypothetical situations;"

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Very truly yours,

**KIM S. JACINTO-HENARES**
Commissioner of Internal Revenue

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FEB 29 2016