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

**Quezon City**

***Bureau of Internal Revenue Ruling***

| RA 10068 | | #078-2016 |
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Person to Contact:
Chief, Law & Legislative Division
Tel. Nos. 926-55-36 / 927-09-63

Date: March 1, 2016

**AHCIL LABORATORIES, INC.**
PERT Compound, Don Sergio Suico St., Tingub
6014 Mandaue, Cebu

Attention : **Engr. Grecilda Sanchez-Zaballero**
President

Gentlemen:

This refers to the letters dated January 11, 2011 and March 7, 2011 requesting recognition of **AHCIL LABORATORIES, INC.** as a value-added tax (VAT) zero-rated taxpayer and availment of income tax holiday (ITH) pursuant to R.A. 10068 or the "Organic Agriculture Act of 2010".

Documents submitted disclose that **AHCIL LABORATORIES, INC.** (TIN is a domestic corporation duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. that the company is engaged in the manufacture of an organic pesticide ("Antica") which is duly registered with the Fertilizer and Pesticide Authority (FPA) of the Department of Agriculture; that the primary purpose of the corporation is *"to develop, manufacture, sell and distribute either in retail or wholesale, both in domestic and international markets the following: alpha hydroxyl fruit acid (in varying grades) and its derivatives; organic or natural-based chemicals; and products of which these natural acids or natural-based chemicals are the active components including but not limited to beauty products, health care products and pesticides"*; and that the corporation is a member of the International Federation of Organic Agriculture Movements (IFOAM).

In reply, please be informed that Section 24 of RA 10068 or the "Organic Agriculture Act of 2010" provides:

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"**Section 24.** *Incentives.* - The government shall extend incentives for the production and propagation of organic farm inputs by maximizing their use in all government and government supported agricultural production, research and demonstration programs. Incentive shall also be provided to farmers whose farms have been duly certified as compliant to the Philippine National Standards (PNS). Further, the DA may give cash reward in recognition of the best organic farm in the country. The DA, the DAR, the DOST, the DILG, the Department of Trade and Industry (DTI), the DepEd, the Department of Finance (DOF), the Land Bank of the Philippine (LBP), and other government lending and non-lending institutions shall also assist organic input producers and organic farmers through the provision of adequate financial, technical, marketing and other services and resources. These include, but shall not be limited to, the following:

(a) Exemption from the payment of duties on the importation of agricultural equipment, machinery and implements as provided under Republic Act No. 9281, which amends Republic Act No. 8435 or the Agriculture and Fisheries Modernization Act (AFMA);

(b) Identification by LGUs of local taxes that may be offered as incentives to organic input production and utilization;

(c) Provision of preferential rates and special window to organic input producers and users by the LBP;

(d) Subsidies for certification fees and other support services to facilitate organic certification;

(e) Zero-rated value-added tax (VAT) on transactions involving the sale/purchase of bio-organic products, whether organic inputs or organic produce; and

(f) Income tax holiday and exemption for seven (7) years, starting from the date of registration of organic food and organic input producers on all income taxes levied by the National Government.

The tax incentives shall be given only to purely organic agriculture - entities/farmers and shall be subject to the accreditation of the BAFPS and periodic reporting by the BAFPS to the DOF: *Provided*, That the said incentives shall be available only to micro, small and medium enterprises as defined under Section 3 of Republic Act No. 9501 or the Magna Carta for Micro, Small and Medium Enterprises." (Underscoring supplied)

In the availment of the above-stated incentives, the Implementing Rules and Regulations (IRR) of RA 10068, states:

"Rule 24.3 The following incentives shall be given only to organic agriculture entities/farmers registered with BAFPS and those which are classified as micro, small and medium enterprises. The BAFPS shall annually provide the Department of Finance list of qualified entities/farmers and enterprises, among others.

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Rule 24.20. The availment of the abovementioned incentives shall be subject to evaluation of BAFPS in coordination with or through joint efforts with the concerned agencies implementing the particular incentives availed of."

From the foregoing, **AHCIL LABORATORIES, INC.** must comply with the requirements and conditions set by the law prior to its availment of the incentives. **AHCIL LABORATORIES, INC.** must be registered and accredited as a purely organic agriculture entity with the Bureau of Agriculture and Fisheries Product Standards (BAFPS) in accordance with Section 15[1] of the IRR of RA 10068. Section 16[2] of the said IRR likewise requires the registration with the BAFPS of organic products subject of sale/purchase.

Upon evaluation of the submitted documents of **AHCIL LABORATORIES, INC.**, this Office opines that the requests for recognition as a VAT zero-rated taxpayer and its availment of ITH are denied for lack of legal basis in view of its failure to present its required registrations and accreditations from the appropriate government agencies tasked to evaluate, register, or accredit in accordance with the provisions of RA 10068 and its IRR.

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[1] Section 15. Accreditation of Organic Certifying Body.—The BAFPS is hereby designated and authorized to grant official accreditation to organic certifying body or entity. The BAFPS is tasked to formulate the necessary rules and procedures in the accreditation of organic certifying body:

[2] Section 16. Registration of Organic Food and Organic Input Producers.—All organic food and input establishments must register with the director, BAFPS, registration under this section shall begin within ninety (90) days of the enactment of this Act. Each such registration shall be submitted to the director through an electronic portal and shall contain such information as the director by guidance may determine to be appropriate. Such registration shall contain the following information:

(a) The name, address and emergency contact information of each organic food or input establishment that the registrant owns or operates;
(b) The primary purpose and business activity of each organic food or input establishment; including the dates of operation if the organic food establishment is seasonal;
(c) A list of the organic food or input produced and corresponding brand names;
(d) For organic food establishment, the name, address and contact information of the organic food certifying body that certified the organic products sold by the company;
(e) An assurance that the registrant will notify the director of any change in the products, function or legal status of the domestic food establishment (including cessation of business activities) not later than thirty (30) days after such change; and
(f) For organic input producers, a list of materials used in the production of each particular input.

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Rule 16.1 Applications for registration shall be subjected to a validation process by BAFPS.

Rule 16.2 All organic input suppliers shall register with the BAFPS within sixty (60) days after effectivity of this IRR, without prejudice to their compliance with the policies and guidelines (i.e. licensing; product testing, etc.) of concerned competent regulatory agencies.

Rule 16.3 The registration of organic products and inputs which are currently with the Fertilizer and Pesticide Authority (FPA) shall continue to be valid until the expiration of said license. Thereafter, registration of such products shall be done by BAFPS.

Note further that RR 10068 grants VAT zero-rating on transactions involving the sale/purchase of bio-organic products, whether organic inputs or organic produce, and not the status as a "VAT zero-rated taxpayer".

To be exempted from payment of taxes, it is the taxpayer's duty to justify the exemption "by words too plain to be mistaken and too categorical to be misinterpreted. Laws granting exemption from tax are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing power. Taxation is the rule and exemption is the exception. The burden of proof rests upon the party claiming exemption to prove that it is in fact covered by the exemption so claimed. *(Commissioner of Internal Revenue vs. Mitsubishi Metal Corporation, G.R. 80041, Jan. 22, 1990)*

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 as represented are different, then this ruling shall be considered null and void.

Very truly yours,

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

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