June 27, 2018

BIR RULING NO. 1021-18

Section 109 (1) (A) of the Tax Code of 1997, as amended; Section 4.109-1 (B) (1) (a) of Revenue Regulations No. 16-2005; BIR Ruling No. 348-11

Superb Catch, Inc.
46 Maria Clara St., Brgy. Acacia
Malabon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated 25 July 2012, requesting for confirmation of your opinion that the sale of your new products is exempt from the 12% value-added tax (VAT) pursuant to Section 109 of the Tax Code of 1997, as amended.

Documents submitted show that Superb Catch, Inc. with Taxpayer's Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Registration No. A1999-17389 dated 08 November 1999; that it is primarily engaged in the culture, processing and selling of different kinds of aqua products such as "bangus, tilapia, sugpo, etc." and the export of all its products as well as importation of raw materials and ingredients needed for the manufacture of the food items; it is marketing the following milkfish products, to wit:

Product Description	Unit
1. Seaking Boneless Milkfish-Unseasoned	420 g
2. Seaking Boneless Milkfish-Smoked	420 g
3. Seaking Boneless Milkfish-Marinated	400 g
4. Seaking Boneless Milkfish-Marinated	420 g
5. Seaking Boneless Milkfish Fillet-Marinated Hot	400 g

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6. Seaking Boneless Milkfish Fillet-Marinated	380 g
7. Seaking Boneless Milkfish Fillet-Marinated Hot	380 g

In reply, please be informed that Section 109 (1) (A) of the 1997 Tax Code, as amended, provides, *viz.*:

"SEC. 109. Exempt Transactions. —

(1) Subject to the provisions of Subsection (2) hereof the following shall be exempt from the value-added tax.

(A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.

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From the foregoing, in order to qualify for VAT exemption under Section 109 (1) (A) of the 1997 Tax Code, the sale or importation of agricultural and marine food products should be in their original state. An "original state" is amplified in Section 4.109-1 (B) (1) (a) of Revenue Regulations No. 16-2005, which implement Title IV of the Tax Code of 1997, as amended, as well as other provisions pertaining to VAT, as:

"Meat, fruits, fish, vegetable and other agricultural and marine food products shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking, or stripping, including those using advanced technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra pack, and other similar packaging method."

Thus, the following milkfish products of **Superb Catch, Inc.**, namely:

1. Seaking Boneless Milkfish-Marinated	400 g
2. Seaking Boneless Milkfish-Marinated	420 g
3. Seaking Boneless Milkfish Fillet-Marinated Hot	400 g
4. Seaking Boneless Milkfish Fillet-Marinated	380 g
5. Seaking Boneless Milkfish Fillet-Marinated Hot	380 g

which have been marinated and/or mixed with other ingredients can no longer be considered in its original state (BIR Ruling No. 348-11 dated September 28, 2011). Accordingly, this

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Office holds that the sale of these products by **Superb Catch, Inc.** is not exempt from the 12% VAT. But the sale of Seaking Boneless Milkfish Product-Unseasoned (420g) and Seaking Boneless Milkfish-Smoked Product (420g) are exempt from the 12% VAT since they are considered sale of marine food products in their original state even if they have undergone the simple processes of preparation such as smoking.

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

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