June 27, 2018

BIR RULING NO. 1023-18

Section 109 (1) (T) of the 1997 Tax Code, as amended; Revenue Regulations No. 15-2015; BIR Ruling No. 092-2016

PNX-Chelsea Shipping Corp.
26/F Fort Legend Tower, 3rd Ave. cor. 31st St.
Bonifacio Global City, Taguig City

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 30, 2015, requesting on behalf of **PNX-Chelsea Shipping, Corp.**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) unit Motor Tanker with IMO No. 9661845 to be named M/T "Chelsea Denise II," pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **PNX-Chelsea Shipping, Corp.**, with Tax Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS201128641; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certificate No. DSO-2006-003-016 (2014) issued on March 14, 2014 and valid until March 27, 2017; and that **PNX-Chelsea Shipping, Corp.** is currently importing one (1) unit Motor Tanker with IMO No. 9661845 to be named M/T "Chelsea Denise II," for a purchase price of Seven Million Three Hundred Thousand US Dollars (USD7,300,000.00), inclusive of the broker's/agent's commission and/or any taxes or duties to be levied, if any, by the People's Republic of China. The subject vessel is more particularly described as follows:

Vessel Name	M/T "Chelsea Denise II"
Kind of Vessel	I + HULL, + MACH, Double Hull Oil

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	Tanker ESP Unrestricted Navigation
Builder's Hull No.	NG015
IMO Number	9661845
Port of Registry	Philippines
Class Entry	Bureau Veritas
Registered Length	94.40 Meter
Registered Breadth	15.40 Meter
Registered Depth	7.60 Meter
Draft (Moulded)	5.65 Meter
Gross Tonnage	2990
Deadweight (at summer draft)	4000 MT
Number of Cargo Holds	10
Place of Building	Ruian, Zhejiang Province, China
Date of Keel Laying	August 26, 2008
Date of Launching	October 5, 2014
Type and Output of Engine	6N330-UN under license — Yanmar, 3000 HP
Engine Maker	Zibo Diesel Engine Factory

that MARINA has approved the importation of the above-described vessel in its letter dated January 26, 2015; and that per Sworn Statement dated April 10, 2015 executed by AAA, _____ of **PNX-Chelsea Shipping, Corp.**, the subject vessel is not manufactured domestically in sufficient quantity and comparable quality and at a reasonable price, and that it is reasonably needed and will be used exclusively by the company in its business operations.

In reply, please be informed that Section 109 (1) (T) of the NIRC of 1997, as amended, provides as follows:

> ***"Sec. 109. Exempt Transactions.*** *— 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
>
> *(T)* [1] *Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations."*

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Based on the above-cited provision, the importation, among others, of a passenger vessel destined for domestic transport operations shall be exempt from VAT. In relation thereto, Section 4.109-1 (B) (1) (t) of the Revenue Regulations (RR) No. 16-2005, as amended by RR No. 15-2015, which implements the above-quoted provision, provides:

"SECTION 4.109-1. VAT-Exempt Transactions. —

xxx xxx xxx

(B) Exempt transactions. —

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:

xxx xxx xxx

(t) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations; Provided, however, that the exemption from VAT on the importation and local purchase of passenger and/or cargo vessels shall be subject to the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA."

It is noted that **M/T "Chelsea Denise II"** is a brand new vessel and has been issued by MARINA with the required authority to be imported. Hence, the importation of the said vessel by **PNX-Chelsea Shipping, Corp.** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **PNX-Chelsea Shipping, Corp.** of **M/T "Chelsea Denise II"** shall be exempt from VAT pursuant to Section 109 (1) (T) of the NIRC of 1997, as amended. The VAT exemption, however, shall be subject to the strict compliance of the conditions contained in the letter of approval issued by MARINA for the importation of the subject vessel.

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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Footnotes

1. Renumbered by Republic Act No. 10378.

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