June 27, 2018

BIR RULING NO. 1024-18

Section 108 (A) of Tax Code of 1997, as amended; Section 2.57.2 (E) (3) (k) of RR No. 2-98, as amended

CITICare Solutions, Inc.
6 North Drive, Summerville Subdivision,
Sauyo, Novaliches, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 18, 2013 requesting for clarification whether or not the value-added tax (VAT) on the Contract of Service between CITICare Solutions, Inc. (CCSI for brevity) and its clients should be based on the administrative fee, which comprise of the basic salary and certain allowances, or the gross amounts payable which includes the basic salary and allowances plus the 13th Month Pay, and the SSS, Philhealth and PAGIBIG contributions of the contracted workers under the contract.

It is represented that CCSI is a corporation duly organized and existing under and by virtue of Philippine Laws. Its primary purpose is "to engage in the business of contracting, enlisting, recruiting and placement of professionals, managerial, technical, skilled and non-skilled workers for local works in activities such as but not limited to production, manufacturing, office administration, sales, marketing and promotions, logistics, housekeeping, construction, building repairs and maintenance, construction debris disposal and other similar and related activities." In other words CCSI provides for manpower services.

In its dealing with clients, CCSI's clients insist on imposing 12% VAT on the gross of the amounts payable to CCSI. According to CCSI, this negatively affects their administrative fee since two percent (2%) is already being withheld from them.

In reply, please be informed that the VAT on the contract of service provided by

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CCSI to its clients should be based on the gross contract price and not merely on the administrative service fees and allowance. Section 108 (A) provides:

> "**SECTION 108.** ***Value-Added Tax on Sale of Services and Use or Lease of Properties. —***
>
> (A) *Rate and Base of Tax*. — There shall be levied, assessed and collected, a value-added tax equivalent to twelve percent (12%) of **gross receipts derived from the sale or exchange of services**, including the use or lease of properties."
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> xxx xxx xxx
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> "The term *'gross receipts'* means the total amount of money or its equivalent representing the **contract price**, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax."

Thus, VAT should be computed based on the gross contract price made to CCSI which include the agency service fee, salaries, SSS, PhilHealth and PAGIBIG contributions.

Pursuant to Section 2.57.2 (E) (3) (k) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 17-2003, CCSI's clients are required to deduct and withhold the 2% creditable tax on its income payments to it. The 2% withholding tax shall be based on the gross payments received by the business agencies which include the agency service fee, salaries, SSS, PhilHealth and PAGIBIG contributions net of 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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

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