June 28, 2018

BIR RULING NO. 1030-18

RA 7898, as amended by RA 10349; BIR Ruling No. 396-2014; BIR Ruling No. 397-2014; BIR Ruling No. 398-2014

Toyota Davao City, Inc.
Km. 6 Lanang, Davao City 8000

Attention: *AAA*

Gentlemen :

This refers to your letter, dated February 24, 2018, requesting for confirmation that, notwithstanding the passage of Republic Act (RA) No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion" ("TRAIN Law"), the sale by **Toyota Davao City, Inc.** (TDCI) of vehicles to the Armed Forces of the Philippines (AFP) for the latter's sole and exclusive use in its operations and undertakings in different parts of the country, are exempt from value-added tax (VAT) pursuant to Section 10 of Republic Act (RA) No. 10349.

As represented, TDCI is a domestic corporation duly registered with the Securities and Exchange Commission and an authorized franchise dealer of Toyota vehicles. It entered into a contract with the Philippine Army in November 2017 and the Department of National Defense in December 2017 for the purchase of 48 units General Purpose Vehicle (Sport Utility Vehicles) and 351 units General Purpose Vehicle (Double Cab Pick-up) after being considered the Lowest Calculated Responsive Bidder in a Public Bidding conducted by the Procuring Entity, through the Philippine Army Bids Special Bids and Awards Committee on August 7, 2017. The funding source is the Government of the Philippines (GOP) through the Philippine Army Appropriation FY 2017.

The Contracts for the Procurement of 48 units General Purpose Vehicle (Sport Utility Vehicles) and 351 units General Purpose Vehicle (Double Cab Pick-up) were awarded to TDCI by virtue of the Notices of Award dated September 20, 2017. Thereafter, TDCI posted pre-order of units from Toyota Motor Philippines (TMP) where most units were made available for delivery on the same period. Of the total 399 units, 38 were already delivered to Camp Aguinaldo in December 2017 while the remaining allocated units are scheduled to be delivered in the first quarter of 2018.

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In reply, please be informed that Section 10 of RA 10349, amending RA No. 7898, provides:

> *"SEC. 10. Insert three (3) sections after Section 16 of the same Act which shall now become the new Sections 17, 18 and 19 respectively, which shall read as:*
>
> > *'SEC. 17. Exemption from Value-Added Tax and Customs Duties. — The sale of weapons, equipment and ammunitions to the AFP, which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the value-added tax; Provided, That the importation of the same by the AFP shall likewise be exempt from the value-added tax and customs duties.'*
>
> xxx xxx xxx"

Under Section 10 of RA 10349, the sale of weapons, equipment and ammunitions to the Armed Forces of the Philippines (AFP), which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the value-added tax. Moreover, the importation of the same by the AFP shall likewise be exempt from the value-added tax. In relation thereto, the Department of National Defense (DND) issued the Department Circular No. 3 *(Issuing the Implementing Guidelines, Rules and Regulations of the Revised Armed Forces of the Philippines Modernization Act)* dated April 11, 2013 which, among others, defined the term "equipment" as referring to *"all non-expendable items needed to outfit or equip any individual and/or organizations and sub-organizations within the AFP." (BIR Ruling Nos. 396-2014, 397-2014 and 398-2014 dated October 17, 2014)*

However, Section 17 of RA 7898, as amended by RA 10349, insofar as value-added tax exemption is concerned, was expressly repealed under Section 86 (ii) of the TRAIN Law. The aforesaid Section states —

> *"SEC. 86. Repealing Clause. — The following laws or provisions of laws are hereby repealed and the persons and/or transactions affected herein are made* ***subject to the VAT*** *provision of Title IV of the NIRC, as amended:*
>
> xxx xxx xxx
>
> *(ii)* ***Section 17****, insofar as VAT exemption is concerned, of* ***R.A. 7898, as amended by R.A. 10349****, Establishing the Revised AFP Modernization Program and for Other Purposes;"*

Thus, effective January 1, 2018, the sale of weapons, equipment and ammunitions to the AFP, which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall now be subject to the value-added tax. Moreover, the importation of the same by the AFP shall likewise be subject to the value-added tax.

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It is noted, however, that the Contracts for the Procurement of 48 units General Purpose Vehicle (Sport Utility Vehicles) and 351 units General Purpose Vehicle (Double Cab Pick-up) have been awarded to TDCI prior to the effectivity of the TRAIN Law, by virtue of the Notices of Award dated September 20, 2017. Accordingly, the aforesaid contracts are still covered by the value-added tax exemption under Section 17 of RA No. 7898, as amended by RA No. 10349. *

In view of the foregoing, the sale by TDCI to the Armed Forces of the Philippines of the 48 units General Purpose Vehicle (Sport Utility Vehicles) and 351 units General Purpose Vehicle (Double Cab Pick-up) are not subject to value-added tax, subject to the condition that the same shall be directly and exclusively used by the AFP for its projects, undertakings, activities and programs under the Revised AFP Modernization Act.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained 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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