July 5, 2018

BIR RULING NO. 1049-18

Sec. 109 (1) (T) of the NIRC of 1997, as amended; BIR Ruling No. 595-2012

Subic Air, Inc.
Hangar Building 8324, International Airport,
Subic Bay Freeport Zone, Subic, Zambales

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 05, 2018, requesting on behalf of Subic Air, Inc. for tax exemption on the importation of one (1) aircraft which arrived at the Port of Subic from the United States of America (USA) on November 25, 2015, pursuant to Section 109 (1) (T) of the National Internal Revenue Code of 1997, as amended.

Documents submitted disclosed that Subic Air, Inc., with Taxpayers Identification Number (TIN) 000-000-000-000, is a domestic corporation organized and registered with the Securities and Exchange Commission (SEC) under Company Registration No. ASO95-005702; that its primary purpose is to carry on by means of airplanes, seaplanes, hydroplanes, amphibian planes, helicopters and other aircraft of every kind and description, the general business of a common carrier and/or private carrier engaged in the transportation of passengers, mail, merchandise, and freight, for hire, including the charter, rental, lease, sale and transportation of airplanes and aircraft, including passengers, baggage, cargo and freight of any nature whatsoever, and all components and parts which are usually and customarily incident thereto and part thereof, and the instruction of persons in the operation and maintenance of airplanes and aircraft, and to maintain, service and repair airplanes, seaplanes, hydroplanes, amphibian planes, helicopters and other aircraft of every kind and description; that it is a licensed aircraft operator thru its Air Operator Certificate (AOC) issued by the Civil Aviation Authority of the Philippines (CAAP), authorized to perform commercial air operations subject to restrictions on area of operations and special limitations as defined in its Operations Manual; that on November 25, 2015, CAAP issued a Certification interposing no objection to the importation of one (1) aircraft, with the following description:

Manufacturer	:	JETCRAFT CORPORATION

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Aircraft Serial No./Model	:	LEARJET 75 AIRCRAFT S/N 45-513
Engine Manufacturer	:	HONEYWELL
Engine Model	:	TFE731-40BR-1B
Engine Serial No.	:	P137247/P137248

and that on November 03, 2017, a Certificate of Public Convenience and Necessity (CPCN) was issued by the Civil Aeronautics Board (CAB), an authority granted to operate Domestic and International Non-Scheduled Air Transportation Services valid until January 2021.

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

"SEC. 109. 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."*

Based on the above-cited provision, the importation of an aircraft destined for domestic transport or international transport operations shall be exempt from value added tax (VAT). In relation thereto, Section 4.109-1 (B) (1) (t) of Revenue Regulations (RR) No. 16-2005, as amended, which implements the above-quoted provision, states that:

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

(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 Maritime Industry Authority (MARINA)."

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Accordingly, the importation of one (1) aircraft with Aircraft Serial No./Model: LEARJET 75 AIRCRAFT S/N 45-513 by Subic Air, Inc. for its domestic and international non-scheduled air transportation services is exempt from the payment 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

Footnotes

1. Renumbered by Republic Act (RA) No. 10378.

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