February 4, 2020

BIR RULING NO. VAT-128-20

Republic Act No. 9513; BIR Ruling No. 1299-18; BIR Ruling No. 751-2018; BIR Ruling No. 78-2010

Reyes Tacandong & Co.
Citibank Tower, 8741 Paseo de Roxas
Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated January 14, 2020 requesting on behalf of EDC Burgos Wind Power Corporation ("EDC") clarification on BIR Ruling No. 0805-2019 dated December 20, 2019 ("Ruling"), clarification with respect to the scope and implementation of the VAT zero-rating incentive pertinent to EDC's local purchases of goods, properties, and services needed for its generation of energy from renewable energy (RE) sources and the need to file applications for VAT zero-rated transactions.

It is represented that a ruling was issued confirming that EDC being a DOE-certified Renewable Energy (RE) Developer is entitled to incentives provided under Section 15 (g) of Republic Act (RA) No. 9513, otherwise known as the "Renewable Energy Act of 2008." Thus, local purchases of goods and services that will be used by it in its development, construction and installation of the 150 MW Wind Energy Power Generation Project located in the Municipality of Burgos, Ilocos Norte is subject to zero-percent (0%) VAT. However, the ruling requires that the processing of application for VAT zero-rated transactions should be made pursuant to Revenue Memorandum Order (RMO) No. 7-2006, in relation to Revenue Regulations (RR) No. 16-2005, as amended. Hence, this query.

In reply thereto, please be informed that Section 15 (g) of RA No. 9513, otherwise known as the "Renewable Energy Act of 2008," provides, to wit:

"SEC. 15. Incentives for Renewable Energy Projects and Activities. — RE

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Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:

xxx xxx xxx

All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors."

Clearly, VAT zero-rating shall cover local purchases of goods, and services needed for its generation of energy from renewable energy sources including the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors. However, the zero-percent (0%) VAT shall be limited only to local purchases of goods and services that will be used by EDC in its 150 MW Wind Energy Power Generation Project in Burgos, Ilocos Norte.

With regard to the requirement of application for VAT zero-rated transactions pursuant to Revenue Memorandum Order (RMO) No. 7-2006, it is for the purpose of the processing of applications for VAT refund by VAT-registered suppliers pursuant to RMC No. 54-2014 as supplemented by RMC No. 17-2018.

Accordingly, this Office clarifies that Ruling No. 0805-2019 dated December 20, 2019 confirms that local purchases of goods and services by VAT-registered suppliers to EDC needed for the generation of renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors, relative to the 150 MW Wind Energy Power Generation Project in Burgos, Ilocos Norte is subject to zero percent (0%) VAT even without the necessity of applying for and securing prior approval for VAT zero-rating. However, for the purpose of processing application for VAT refund of VAT-registered suppliers for VAT zero-rated transactions, an application for VAT zero-rated transactions pursuant to RMO No. 7-2006 is required under RMC No. 54-2014 as supplemented by RMC No. 17-2018.

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.

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Very truly yours,

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

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