November 15, 2018

BIR RULING NO. 1320-18

Section 109 (1) (R), Tax Code of 1997, as amended; BIR Ruling No. 215-15

St. Clare Publications Corp.
2F 1373 E. Rodriguez Sr. Avenue
Brgy. Kristong Hari
1112 Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated November 10, 2015 requesting, on behalf of **St. Clare Publications Corp. ("St. Clare")**, for exemption from the payment of value-added tax (VAT) pursuant to Section 109 (1) (R) of the Tax Code of 1997.

Documents submitted disclosed that **St. Clare** (TIN: 000-000-000-000) is a domestic corporation registered with the Securities and Exchange Commission (SEC), under Registration No. CS201309036 dated May 10, 2013. Its primary purposes are to carry on business as proprietors and publishers of newspaper, journals, magazines, books and other literary works; to carry on business as booksellers, bookbinders, papermakers, photographers, photographies or any other business that may seem expedient; and to create, produce, and distribute books and other publications.

In reply, please be informed that under Section 109 (1) (R) of the Tax Code of 1997, as amended, and as implemented by Section 4.109-1 (B) (r) of Revenue Regulations (RR) No. 16-2005, sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin, which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements, shall be exempt from VAT. As such, regardless of the amount of the said transaction, St. Clare will not be subject to the VAT and consequently from the creditable VAT on its business of publication and sale of books. Neither will it be required to pay the 3% percentage tax under Section 116, in relation to Section 109 (1) (V) of the same Code on

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those activities. (BIR Ruling No. 382-13 dated October 22, 2013)

In view of the foregoing, St. Clare's business of publication and sale of books is exempt from the payment of VAT/creditable VAT and from the 3% percentage tax. However, if St. Clare has other transactions (such as the printing of brochures, bookbinding, engraving, stereotyping, electrotyping, lithographing of various reference books, trade books, journals and other literary works), which are subject to the VAT, it will also be required to register its business as a VAT business entity and issue a separate VAT invoice/receipt to record such transactions.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. However, being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to St. Clare does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (1) (R) of the Tax Code to avoid the passing on or shifting of the VAT. Hence, notwithstanding that St. Clare is a publication and printing company, its purchases of goods, properties or services from its suppliers shall nevertheless be subject to the 12% VAT pursuant to Section 107 of the same Code.

However, in regards to the sale and publication of electronically printed materials or digital/computerized versions, including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software, this Office had clarified in Revenue Memorandum Circular (RMC) No. 75-2012 dated November 22, 2012, that the terms "book," "newspaper," "magazine," "review" and "bulletin," for purposes of the VAT law, only apply to printed materials in hard copies. It does not, however, apply to electronic copy of any book or publication.

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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