November 15, 2018

BIR RULING NO. 1342-18

Sec. 109 (1) (R), Tax Code of 1997, as amended; Ruling No. 102-14

Magilas Distribution and Trading Corporation
Brgy. 16, San Nicolas
2901 Ilocos Norte

Attention: *AAA*

Gentlemen :

This refers to your letters dated September 12, 2014 and April 17, 2015 requesting for a VAT exemption certificate pursuant to Section 109 (1) (R) of the Tax Code of 1997, as amended.

It is represented that **MAGILAS DISTRIBUTION AND TRADING CORPORATION** with Taxpayer's Identification No. 000-000-000-000, is a domestic corporation registered with Securities and Exchange Commission (SEC) under Company Registration No. CS201407788 dated April 22, 2014. Its primary purpose is *"to engage in the 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."* Magilas Distribution and Trading Corporation is registered with the National Book Development Board (NBDB) as a Book Wholesaler/Retailer and Distributor per NBDB Registration No. 1722. [1]

In reply, please be informed that under Section 109 (1) (R) of the Tax Code of 1997, as amended, the "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 is exempt from the imposition of the VAT."

Section 4.109-1 (B) (r) of Revenue Regulations (RR) No. 16-2005, implementing Section 109 (1) (R) of the 1997 Tax Code, as amended provides that —

> *"(r) Sale, importation, printing or publication of books and any newspaper, magazine, review, or bulletin which appears at regular intervals with fixed*

Copyright 2020 CD Technologies Asia, Inc.

prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;"

shall be exempt from VAT.

Prescinding from the above-cited provisions, it is clear that there are four (4) activities that are exempt from the coverage of VAT, *i.e.*, sale, importation, printing and publication of books, newspapers, magazines, reviews and bulletins. Moreover, the features of the said items, like magazine should appear at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements. (BIR Ruling No. 255-12 dated April 20, 2012)

In view thereof, your business of sale of books and distribution is exempt from the payment of VAT/creditable VAT and from the 3% percentage tax. However, if you have 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, you will also be required to register your business as a VAT business entity and issue a separate VAT invoice/receipt to record such transactions. (BIR Ruling No. 007-2011 dated January 11, 2011)

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 Magilas Distribution and Trading Corporation 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 of 1997, as amended, to avoid the passing on or shifting of the VAT. Hence, notwithstanding that Magilas Distribution and Trading Corporation is a book wholesaler/retailer and distributor 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, with regard 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 [2] 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.

Copyright 2020 CD Technologies Asia, Inc.

Very truly yours,

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

Footnotes

1. Valid from October 20, 2014 until April 30, 2017.
2. Clarifying Section 109 (1) (R) of the NIRC of 1997, as amended, on the VAT exemption of the sale, importation, printing or publication of books, newspapers, magazines, reviews or bulletins.

Copyright 2020 CD Technologies Asia, Inc.