November 16, 2018

BIR RULING NO. 1372-18

Republic Act (RA) No. 10068; IRR; RMO No. 09-2014

Stockton Agrimor Philippines, Inc.
Unit 213, GRDC Building
Lanang, Davao City

Attention: *AAA*

Sir :

This refers to your letter dated February 22, 2017 concerning your intention, in behalf of **STOCKTON AGRIMOR PHILIPPINES, INC.** (**STK**, for brevity), to avail of the incentives provided by Republic Act (RA) No. 10068 which was approved on April 6, 2010 otherwise known as "***ORGANIC AGRICULTURE ACT OF 2010***."

It is represented that STK, a corporation duly organized and existing under the laws of the Philippines with Taxpayer Identification Number (TIN) 000-000-000-000 and registered Head Office at 213 GRDC Building, Lanang, Davao City, is a Company engaged in the purchase or importation and sales of farm inputs, "Timorex Gold" in particular, which is a naturally-occurring compound extracted from Tea Tree (Melaleuca alternifolia) and is labelled for the control of fungal diseases of banana, mango, rice and tobacco. The Company, as claimed, is licensed to operate as importer of Biological Control Agents (BCAs) with Bureau of Agriculture and Fisheries Standards (BAFS). [1]

As further represented, Timorex Gold is registered with the BAFS and has been classified by the latter as "organic biological control agent." Timorex Gold has been certified as an "organic fungicide" by the Organic Certification Center of the Philippines (OCCP).

You now intend to avail the incentives provided by RA No. 10068 and pose the following questions:

A. What would be the classification of the VAT incentive when Timorex

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Gold is purchased or imported and sold? Would it be VAT-exempt or Zero-rated?

B. Is there a need to apply for BIR's approval before the VAT exemption can apply?

C. Is RA No. 10068 comprehensive enough to entitle STK to the seven (7) years income tax holiday or is there a need to secure an approval/certification from any other Government entities?

In support of your application, you have attached the following documents:

1. Sworn Letter Request for BIR Ruling/Certification on VAT Exemption and Tax Incentives pursuant to RA No. 10068;

2. Copy of Certificate of Registration with the Bureau of Agriculture and Fisheries Standards (BAFS);

3. Copy of License issued by BAFS;

4. Copy of Organic Certificate issued in favor of STK by Organic Certification Center of the Philippines (OCCP);

5. Copy of Implementing Rules and Regulations (IRR) of RA No. 10068;

6. Copy of Certificate of Incorporation issued by the Securities and Exchange Commission; and

7. Audited Financial Statement for taxable year 2015.

In reply, please be informed that a mere importer of an organic farm input is not entitled to the incentives provided by RA No. 10068. The grant of incentives enumerated in Section 24 of RA No. 10068 is subject to conditions, *viz.*:

> *"The government shall extend incentives for the production and propagation of organic farm inputs by maximizing their use in all government and government-supported agricultural production, research and demonstration programs . . .*
>
> xxx xxx xxx
>
> *The tax incentives shall be given only to purely organic agriculture entities/farmers and shall be subject to the accreditation of the BAFPS and periodic reporting by the BAFPS to the DOF: Provided, That the said incentives shall be available only to micro, small and medium enterprises as defined under Section 3 of Republic Act No. 9501 or the*

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Magna Carta for Micro, Small and Medium Enterprises."

Based on the above, STK can avail the incentives if STK is engaged in the production and propagation of organic farm inputs. Moreover, the incentive shall be given only if STK (1) is a purely organic agriculture entity/farmer; (2) is accredited with the BAFS which periodically reports to the DOF; and (3) is registered as micro, small or medium enterprise as defined under Section 3 of RA No. 9501 otherwise known as "Magna Carta for Micro, Small and Medium Enterprises."

The Implementing Rules and Regulations of RA No. 10068 defined "*organic input establishment*" as an entity, whether local or foreign, that *produces* inputs acceptable for organic agriculture. "*Organic Input producer*" on the other hand, was defined as an entity, whether local or foreign, that produces inputs compliant with the Philippine National Standards for Organic Agriculture.

STK is a Company engaged in the purchase or importation and sales of Timorex Gold — a naturally-occurring compound extracted from Tea Tree (Melaleuca alternifolia) labelled for the control of fungal diseases of banana, mango, rice and tobacco. It is neither an organic input establishment or an organic input-producer as defined in the implementing rules and regulations of RA No. 10068. STK, as a mere importer as indicated in its License issued by the BAFS, is not entitled to the incentives provided by RA No. 10068.

It should be stressed that RA No. 10068 was enacted "*to promote, propagate, develop further and implement the practice of organic agriculture in the Philippines that will cumulatively condition and enrich the fertility of the soil, increase farm productivity, reduce pollution and destruction of the environment, prevent the depletion of natural resources, further protect the health of farmers, consumers, and the general public, and* ***save on imported farm inputs****. Towards this end, a comprehensive program for the* ***promotion of community-based organic agriculture systems*** *which include, among others, farmer-produced purely organic fertilizers such as compost, pesticides and other farm inputs, together with a nationwide educational and promotional campaign for their use and processing as well as adoption of organic agriculture system as a viable alternative shall be undertaken."* (emphasis supplied)

Hence, the grant of incentives provided by RA No. 10068 in favor of an importer of imported farm inputs would go against the State Policy as declared in the said RA. In addition, STK failed to prove that it is registered as small or medium enterprise pursuant to RA No. 9501 otherwise known as "The Magna Carta for Micro, Small and Medium Enterprises."

"Tax exemption represents a loss of revenue to the government and must, therefore, not rest on vague inference. Thus, in establishing tax exemptions, it should be

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borne in mind that taxation is the rule, exemption is the exception. Accordingly, statutes granting tax exemptions must be construed in strictissimi juris against the taxpayer and liberally in favor of the taxing authority. ***One who claims an exemption from tax payments rests the burden of justifying the exemption by words too plain to be mistaken and too categorical to be misinterpreted****. Exemption from taxation is never presumed. For tax exemption to be recognized, the grant must be clear and express; it cannot be made to rest on doubtful implications."* [2] (Emphasis Supplied)

In view of the foregoing, this Office is of the opinion that Stockton Agrimor Philippines, Inc. is not entitled to the incentives provided by RA No. 10068 otherwise known as "The Organic Agriculture Act of 2010." Consequently, questions enumerated above, since no incentive will apply, pose no significance and require no answer.

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. Formerly known as Bureau of Agriculture and Fisheries Products Standards (BAFPS). Renamed by virtue of R.A. No. 10601.
2. *Michel J. Lhuillier Pawnshop, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166786 dated May 3, 2006.

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