REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 109(1)(T) of the 1997 Tax Code, as amended
Revenue Regulations No. 15-2015
BIR Ruling No. 092-2016

#145-2016
4-22-2016

ARCHIPELAGO PHILIPPINES FERRIES CORPORATION
5B Unioil Bldg. Commerce Ave. cor. Acacia Ave.
Ayala, Alabang

Attention: **Leo Peter Paul Gonzales**
President/CEO

Atty. Ricky G. Ty
Atty. Rexter Tupas
Legal Counsels

Gentlemen:

This refers to your two (2) letters dated March 10, 2014 and December 16, 2014, requesting on behalf of **Archipelago Philippines Ferries Corporation**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of three (3) units of passenger vessels, namely, **M/V Fast Cat M7, M/V Fast Cat M8** and **M/V Fast Cat M9**, pursuant to Section 109(1)(T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **Archipelago Philippines Ferries Corporation** (TIN: is a domestic corporation registered with the Securities and Exchange Commission (SEC), with Company Registration No. ; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in Domestic Shipping Business based on the MARINA Certification No. dated November 6, 2015; and that **Archipelago Philippines Ferries Corporation** is currently importing three (3) brand new passenger vessels, more particularly described as follows:

Vessel's Name	**Fast Cat M7**	**Fast Cat M8**	**Fast Cat M9**
Vessel's Type	RORO Passenger Catamaran Ferry	RORO Passenger Catamaran Ferry	RORO Passenger Catamaran Ferry
Flag	Philippines	Philippines	Philippines
Port of Registry	Port of Batangas	Port of Batangas	Port of Batangas
IMO Number			

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Overall Length	49.79 M	49.79 M	49.79 M
Reg. Breadth	17.5 M	17.5 M	17.5 M
Reg. Depth	4.20 M	4.20 M	4.20 M
Gross Tonnage	704	704	704
Net Tonnage	212	212	212
Main Engines	4 x Yanmar 6AY-WST 485kW @1900rpm	4 x Yanmar 6AY-WST 485kW @1900rpm	4 x Yanmar 6AY-WST 485kW @1900rpm
Steering System	1 x RIQ/Kobelt OED-Custom-1.26-1.35°	1 x RIQ/Kobelt OED-Custom-1.26-1.35°	1 x RIQ/Kobelt OED-Custom-1.26-1.35°
Main Gen-Set	1 x Cummins YP65MXDG 55eKw @1800rpm	1 x Cummins YP65MXDG 55eKw @1800rpm	1 x Cummins YP65MXDG 55eKw @1800rpm
Harbor Generator	1 x Cummins YP65MXDG 55eKw @1800rpm	1 x Cummins YP65MXDG 55eKw @1800rpm	1 x Cummins YP65MXDG 55eKw @1800rpm
Hull Material	High Tensile Steel	High Tensile Steel	High Tensile Steel
Place of Building/Shipyard	Guangdong Bonny Fair Heavy Industry Ltd.	Guangdong Bonny Fair Heavy Industry Ltd.	Marine Expert (Zhaoqing) Xi-jiang Shipyard
Classification	ABS +A1 HSC, RO/RO Passenger Ferry, [+] AMS Philippine Inter-Island Service with description "Catamaran Ferry, Maximum Significant Wave Height 4m"	ABS +A1 HSC, RO/RO Passenger Ferry, [+] AMS Philippine Inter-Island Service with description "Catamaran Ferry, Maximum Significant Wave Height 4m"	ABS +A1 HSC, RO/RO Passenger Ferry, [+] AMS Philippine Inter-Island Service with description "Catamaran Ferry, Maximum Significant Wave Height 4m"
Builder's Hull Number	APFC-HY-2208	APFC-HY-2207	APFC-HY-2206
Keel-Laid Date	10th May 2013	20th April 2013	30th December 2013
Launch Date	15th May 2014	25th May 2014	30th June 2014

that MARINA has approved the importation of the above-described vessels in its three (3) letters dated December 10, 2014 and February 23, 2015; that based on the two (2) Affidavits of Undertaking dated December 16, 2014 and March 10, 2015 executed by the Company's President, Leo Peter Paul K. Gonzales, the subject vessels cannot be manufactured domestically in sufficient quantity and comparable quality and at a reasonable price; and that the same are reasonably needed and will be used exclusively by the company in its transport operations.

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In support of its request for exemption, **Archipelago Philippines Ferries Corporation** has submitted the following documents:

1. Certified true copies of the SEC Certificate of Registration, Articles of Incorporation and By-Laws;
2. Certified true copies of the MARINA Authority to Import;
3. Certified true copies of the Builder's Certificates;
4. Certificate of Registration with MARINA;
5. BIR Certificate of Registration; and
6. Other documents.

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

> *"**Sec. 109 Exempt Transactions**. – Exempt Transactions.-*
>
> *(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax.*
>
> *(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, among others, of a passenger vessel destined for domestic transport operations shall be exempt from VAT. In relation thereto, Section 4.109-1 (B)(1)(t) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 15-2015, which implements the above-quoted provision, provides:

> *"SECTION 4.109-1. VAT-Exempt Transactions. —*
>
> *xxx xxx xxx*
>
> *(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 MARINA."*

[1] Renumbered by Republic Act No. 10378

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It is noted that **M/V Fast Cat M7, M/V Fast Cat M8 and M/V Fast Cat M9** are all brand new vessels and have been issued by MARINA with the required authority to be imported. Hence, the importation of said vessels by **Archipelago Philippines Ferries Corporation** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **Archipelago Philippines Ferries Corporation** of **M/V Fast Cat M7, M/V Fast Cat M8** and **M/V Fast Cat M9** shall be exempt from VAT pursuant to Section 109(1)(T) of the NIRC of 1997, as amended. The VAT exemption, however, shall be subject to the strict compliance of the conditions contained in the letter of approval issued by MARINA for the importation of the above-described vessels.

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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