REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

**Quezon City**

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

#146-2016
4-22-2016

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

**Attention:** **Segundo C. Mentoya, Jr.**
General Manager

Gentlemen:

This refers to your letter dated **January 15, 2016**, requesting on behalf of **Archipelago Philippines Ferries Corporation**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of two (2) passenger vessels, namely, **M/V Fast Cat M10 and M/V Fast Cat M11**, 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 two (2) brand new passenger vessels, more particularly described as follows:

| Vessel's Name | **Fast Cat M10** | **Fast Cat M11** |
|---|---|---|
| Vessel's Type | RORO Passenger Catamaran Ferry | RORO Passenger Catamaran Ferry |
| Flag | Philippines | Philippines |
| Port of Registry | Port of Batangas | Port of Batangas |
| IMO Number | | |
| Overall Length | 49.79 M | 49.79 M |
| Reg. Breadth | 17.5 M | 17.5 M |
| Reg. Depth | 4.20 M | 4.20 M |
| Gross Tonnage | 704 | 704 |
| Net Tonnage | 212 | 212 |
| Main Engines | 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° |

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|---|---|---|
| Main Gen-Set | 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 |
| Hull Material | High Tensile Steel | High Tensile Steel |
| Place of Building/Shipyard | Guangdong Bonny Fair Heavy Industry Ltd. | Marine Expert (Zhaoqing) Xijiang 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" |
| Builder's Hull Number | APFC-HY-2209 | APFC-HY-2205 |
| Keel-Laid Date | 1st November 2013 | 23rd December 2014 |
| Launch Date | 1st July 2014 | |

that MARINA has approved the importation of the above-described vessels in its two (2) letters dated March 30, 2015 and May 11, 2015; that based on the Affidavit of Undertaking dated January 18, 2016 executed by the Company's General Manager, Segundo C. Mentoya, Jr., the subject vessels are directly imported by the company; and that the same are reasonably needed and will be used exclusively by the company in its transport operations.

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.*

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> *(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."*

It is noted that **M/V Fast Cat M10** and **M/V Fast Cat M11** 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 M10** and **M/V Fast Cat M11** 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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[1] Renumbered by Republic Act No. 10378