REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 109(1)(T) of the Tax Code of 1997, as amended
Revenue Regulations No. 15-2015
BIR Ruling No. 147-2016; and BIR Ruling No. 92-2016
#212-2017
4-24-2017

PULAU BANDA CORPORATION
5th Floor, Pacific Star Building,
Sen. Gil Puyat corner Makati Avenue,
Makati City

Attention: ROBERTO P. LOZADA
Treasurer

Gentlemen:

This refers to your letters dated June 28, 2016 and July 11, 2016, respectively, requesting for a ruling that the importation of two (2) units, **2007-built, 492.00 GT deck cargo ships, "M/V PERMAI JAYA" and 2009-built, 499.00 GT "WAWASAN 5"**, and one (1) unit **1999-built, 134.00 GT general purpose ship, "M/V PSALM 23" (TBR: "TUBATAHA UNO")**, is exempt from the payment of Value-Added Tax (VAT), pursuant to Section 109(1)(T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **PULAU BANDA CORPORATION** is a domestic corporation duly registered with the Securities and Exchange Commission (SEC), with Company Registration No. dated May 8, 2015; that its primary purpose is to own, charter, maintain, manage, or operate ships, vessels, boats, or watercrafts for hauling, transport, or conveyance of merchandise, freight goods, or any kind of cargo, including passengers, to, from, and between the various islands of the Philippines and neighboring countries in pursuit of trade and commerce, and when needed, to assist in emergency rescue, disaster reliefs, and humanitarian aid operations; and, as incidental thereto, to own, rent, maintain, or operate piers, harbors, wharfs, jetties, or docks, as well as maintenance, repair, and service facilities for such watercrafts; that it is also registered with the Bureau of Internal Revenue (BIR) with Certificate of Registration No. dated November 10, 2015 and with Taxpayers Identification No. (TIN) ; that it is currently importing three (3) vessels, namely, **"M/V**

PERMAI JAYA", "WAWASAN 5" and "M/V PSALM 23" (TBR: "TUBATAHA UNO"), particularly described as follows:

SPECIFICATION	VESSEL 1	VESSEL 2	VESSEL 3
Vessel Name	"M/V PERMAI JAYA"	TBR:TUBATAHA UNO (formerly "M/V PSALM 23")	"WAWASAN 5"
Vessel Type	Deck Cargo Ship	Steel General Purpose	Deck Cargo Ship
Flag	Malaysia	Malaysia	Malaysia
Port of Registry	Kuching	Kuching	Kuching
Official Number	330856	329685	333260
IMO Number	9463188	8807868	9614373
Overall Length	42.64 m	28.04 m	47.00 m
Regular Breadth	11.60 m	6.00 m	11.00 m
Regular Depth	3.05 m	2.88 m	3.20 m
Gross Tonnage	492	134	499
Net Tonnage	148	41	149
Main Engines	2x620 BHP, Yanmar 6LAH-STE	2x Cummins Diesel KTA 19-M4, Each 550 BHP	2x829 BHP Yanmar 6AYM-ETE
Steering System	Hydraulic Steering	Hydraulic Steering	Hydraulic Steering
Main Gen-Set	2x80kw, Cummins 6BT 5.9 G1	2x80kw Cummins 6CTa8-3G2	2x80kw, Cummins 6BT5.9-M
Harbor Generator	none	none	1x80kw Cummins 6BT5.9-M
Hull Material	Steel	Steel	Steel
Place of Building/Shipyard	Sibu, Sarawak, Malaysia	Sibu, Sarawak, Malaysia	Sibu, Sarawak, Malaysia
Classification	Ship Classification Malaysia (SCM)	Ship Classification Malaysia (SCM)	Bureau Veritas (BV)
Keel-Laid Date	22 January, 2007	January, 1999	15 December, 2009
Launch Date	15 January, 2007	10 February, 2003	21 December, 2010
Delivery Date	30 June, 2007	27 October, 2003	22 January, 2011

and that **PULAU BANDA CORPORATION** has obtained from Maritime Industry Authority (MARINA) the necessary clearance/authority to import the abovementioned vessels.

In support of its request for exemption, **PULAU BANDA CORPORATION** has submitted the following documents:

1. Request Letters dated June 28, 2016 and July 11, 2016, respectively;
2. Certified true copies of its SEC Certificate of Incorporation, Articles of Incorporation and By-Laws;
3. Certified true copy of its BIR Certificate of Registration;

4. Certified true copy of its MARINA Certificate of Accreditation dated April 25, 2016 and July 1, 2016;
5. Certified true copies of the Authority to Acquire/Import issued by MARINA dated 25 April, 2015 and 1 July, 2016;
6. Certified true copies of its Annual Income Tax Return and Audited Financial Statements for the year 2015;
7. Affidavits of Undertaking;
8. Copies of the Builder's Certificates; and
9. 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 cargo 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."*

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[1] Renumbered by Republic Act No. 10378

It is noted that **"M/V PERMAI JAYA", "M/V PSALM 23" (TBR: "TUBATAHA UNO")** and **"WAWASAN 5"** were acquired by virtue of Authority to Acquire/Import issued by MARINA dated April 25, 2016 and July 1, 2016, respectively. Hence, the importation of said vessels by **PULAU BANDA CORPORATION** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **PULAU BANDA CORPORATION** of **"M/V PERMAI JAYA", "WAWASAN 5"**, and **"M/V PSALM 23" (TBR: "TUBATAHA UNO")** 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-mentioned vessels as described in the Authority to Acquire/Import dated April 25, 2016 and July 1, 2016, respectively. ***(BIR Ruling Nos. 92-2016 and 147-2016)***

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 as null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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PULAU BANDA CORPORATION