April 4, 2019

BIR RULING NO. 232-19

Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended; BIR Ruling No. 109-2018

Rex Bookstore, Inc.
84 P. Florentino St., Sta. Mesa Heights
Santo Domingo (Matalahib),
Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 09, 2018, requesting on behalf of **Rex Bookstore, Inc.** for a ruling on the following:

1. Whether or not **Rex Bookstore, Inc.** is subject to value-added tax (VAT) on the sale of its books to DECS-Field Offices and local government units; and

2. What taxes shall be imposed on the sale of its books and how to compute the same.

It is represented that **Rex Bookstore, Inc.** with Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. 8RC0001614137E, is a corporation duly organized and existing under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. 148798; that it is also registered with the National Book Development Board (NBDB) as Book and/or E-book Publisher, Book and/or E-book Seller (Retail/Wholesale), Commercial Book Importer, and Book Printer per NBDB Registration No. 2018-0006; [1] and that the primary purpose for which the corporation was incorporated is to engage in, conduct, and carry on the business of buying, selling, distributing, marketing at wholesale and retail insofar as may be permitted by law, all kinds of goods, commodities, ware and merchandise of every kind and description to enter into all kinds of contracts for the export, import, purchase, acquisition, sale at wholesale or retail and other disposition for its own account as principal or in representative capacity as manufacturer's representative, merchandise broker, indent or

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commission merchant, factors or agents, upon consignment of all kinds of goods, wares, merchandise or products whether natural or artificial and to publish, print and distribute books, papers, magazines, periodicals and school and office supplies, of all descriptions, and in products, natural or artificial of the Philippines or other countries, or in goods, wares, merchandise or anything of any nature which is or may become articles of commerce.

In reply, please be informed that Section 109 (1) (R) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides that:

"SEC. 109. Exempt Transactions. —

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax.

xxx xxx xxx

(R) 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;"

The above provision is being implemented by Section 4.109-1 (B) (1) (r) of Revenue Regulations (RR) No. 16-2005, as amended, to wit:

"Section 4.109-1. VAT Exempt Transactions. —

xxx xxx xxx

(B) Subject to the provisions of Section 4.109.2 hereof, the following transactions shall be exempt from VAT:

xxx xxx xxx

(r) 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;"

In Revenue Memorandum Circular (RMC) No. 75-2012 dated November 22, 2012, this Office made a clarification on the VAT exemption granted under Section 109 (1) (R) of the NIRC of 1997, as amended, to wit:

1. A newspaper, magazine, review or bulletin must be: (1) printed or published at regular intervals; (2) available for subscription and sale at fixed prices; and (3) are not principally devoted to the publication of paid advertisements.

2. The terms *"book," "newspaper," "magazine," "review"* and *"bulletin"* as used in the provision refer to printed materials in hard copies. They do not include those in digital or electronic format or computerized versions,

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including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software.

Based on the foregoing, there are four (4) activities that are exempt from the coverage of VAT, *i.e.*, 1) sale; 2) importation; 3) printing; and 4) publication of books, newspapers, magazines, reviews and bulletins. Moreover, there are certain requirements that have to be met under the above provisions, to wit: the newspaper, magazine, review or bulletin must be:

1. printed or published at regular intervals;

2. available for subscription and sale at fixed prices;

3. are not principally devoted to the publication of paid advertisements; and

4. printed in hard copies.

The concurrence of the aforesaid requirements must be present in order that the sale, importation, printing and publication of books, newspapers, magazines, reviews and bulletins will be exempt from the imposition of VAT.

In view thereof, the sale of **Rex Bookstore, Inc.** of its books to DECS-Field Offices and local government units is exempt from the payment of VAT and from the three percent (3%) percentage tax under Section 116, in relation to Section 109 (1) (R) of the NIRC of 1997, as amended, provided the aforesaid requirements are present.

However, if **Rex Bookstore, Inc.** is engaged in other non-exempt activities such as the printing of brochures, bookbinding, engraving, stereotyping, electrotyping, lithographing of various reference books, trade books, journals and other literary works, said transactions are subject to VAT, and the taxpayer shall be required to register its business as VAT business entity and must issue a separate VAT invoice/receipt therefor to record the same. Also, sale of books, newspapers, magazines, reviews and bulletin in digital or electronic format or computerized versions, including but not limited to e-books, e-journals, electronic copies, online library services, CDs and software shall be subject to VAT.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. 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 **Rex Bookstore, Inc.** does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (R) of the NIRC of 1997, as amended, to avoid the passing on or shifting of the VAT. Hence, its purchase of goods, properties, or services from its suppliers shall nevertheless be subject to the twelve percent (12%) VAT pursuant to Sections 106, 107,

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and 108 of the same Code. [2]

With regard to the taxes that shall be imposed on the sale of its books and how to compute the same, kindly refer to Revenue District Office No. 116-Regular LT Division I where **Rex Bookstore, Inc.** is registered.

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,

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

Footnotes

1. Valid until April 30, 2019.
2. BIR Ruling No. 109-2018 dated January 31, 2018.

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