June 20, 2019

BIR RULING NO. 355-19

Sec. 109 (1) (H) of the National Internal Revenue Code of 1997, as amended; BIR Ruling No. 403-2013

G. Pagaspas Partners & Co. CPAs
Unit 2309 Cityland Herrera Tower
V.A Rufino St., Cor. Ayala Avenue
Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated February 15, 2017, requesting on behalf of your client, **ST. NICOLAS TRAINING INSTITUTE, INC.**, for a ruling that it is exempt from the payment of value-added tax (VAT) as TESDA-accredited private institution providing educational services.

Documents submitted disclosed that **ST. NICOLAS TRAINING INSTITUTE, INC.**, with Taxpayer's Identification Number (TIN) 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under SEC Registration No. CS201133494; that the primary purposes [1] for which it was incorporated are:

1. *To offer Technical Vocational Education and Training; and*

2. *To operate an Assessment Center for Technical Vocational Education and Training.*

and that it was granted the following Certificates of TVET Program Registration by the Technical Education and Skills Development Authority (TESDA), Region VI:

Certificate Number	Program	Date Issued	Duration (Hours)
WTR No. 2012060502004	Massage Therapy NC II	Feb. 15, 2012	560
WTR No. 2012060502005	Hilot (Wellness Massage) NC II	Feb. 15, 2012	120
MTP No. 2013062001	Hilot (Wellness Massage) NC II	Mar. 19, 2013	120

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WTR No. 201306052003	Beauty Care Services (Nail Care) NC II	Mar. 27, 2013	216
MTP No. 2014062002	Beauty Care Services (Nail Care) NC II	Oct. 13, 2014	216
No. 201506052033	Dressmaking NC II	Dec. 21, 2015	275
No. 201606052001	Facial Make-up *leading* to Beauty Care NC II	Jan. 29, 2016	188
No. 201606052002	Body Massage *leading* to Beauty Care NC II	Jan. 29, 2016	188

In reply please be informed that Sec. 109 (1) (H) of the National Internal Revenue Code of 1997, as amended, states 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
>
> *(H) Educational services rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions."*

Thus, under the National Internal Revenue Code of 1997, as amended, TESDA recognized or accredited institutions are exempt from VAT pursuant to Section 109 (1) (H) thereof.

In view of the foregoing, **ST. NICOLAS TRAINING INSTITUTE, INC.**, a TESDA recognized or accredited institution is exempt from VAT on its educational services certified by TESDA as programs for Massage Therapy NC II, Hilot (Wellness Massage) NC II, Beauty Care Services (Nail Care) NC II, Dressmaking NC II, Facial Make-up *leading* to Beauty Care NC II, and Body Massage *leading* to Beauty Care NC II, within the specified duration (hours).

However, the exemption from VAT does not include other programs or services offered not covered by the authority/accreditation granted by TESDA, which may be subject to VAT under Section 108 of the National Internal Revenue Code of 1997, as amended.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. Thus, 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. Hence, the shifting of the VAT to **ST. NICOLAS TRAINING INSTITUTE, INC.** does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (1) (H) of the National Internal Revenue Code of 1997, as amended, to avoid the passing on or shifting of the VAT. Accordingly, notwithstanding that **ST. NICOLAS TRAINING INSTITUTE, INC.** is a TESDA

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recognized or accredited institution, its purchases of goods, properties or services from its VAT-registered suppliers shall nevertheless be subject to the 12% VAT pursuant to Sections 106 to 108 of the same Code.

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 as represented are different, then this ruling shall be considered null and void.

Very truly yours,

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

Footnotes

1. Second Article, Amended Articles of Incorporation.

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