July 3, 2019

BIR RULING NO. 364-19

Sec. 108 (B) (4); RA 10963; RR 13-2018;
BIR Ruling No. 295-2012

Victorian Excellence Solutions, Inc.
No. 12, Winston St., East Fairview
Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 05, 2018 stating that your client, **Teekay Shipping Philippines, Inc. (TKP)** is a corporation duly registered with the Securities and Exchange Commission (SEC) under SEC Registration No. 160723 with TIN 000-000-000-000; that it is primarily organized to —

> "To carry on, conduct and engage in the business of crewing, and manning domestic and international ships and to act as ships' agent, ships' husbanding agents, charterers, ships and shipping brokers, managers of ships and shipping property, and shipowners' agents, and therefore to contract for the acquisition, procurement and engagement of all equipment, supplies and services necessary for the outfitting and operation of ships."

that Teekay Shipping Philippines is engaged in the business of crewing (recruitment/manning) of several foreign owned ocean-going vessels; and that its compensation for services rendered is paid for in foreign currency.

In support of your request, you submitted the following documents, to wit:

1. Certified true copy of its SEC Registration;
2. Certified true copy of its Articles of Incorporations and By-Laws;
3. BIR Certificate of Registration;
4. Copy of the Crewing Services Agreement with Teekay Marine LTD.; and

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5. Certification of regular remittance from Citibank, N.A. Manila.

Based on the foregoing representations, you now request for a ruling that services rendered by TKP to foreign owned ocean-going vessels and paid for in foreign currency shall be subject to VAT at zero percent (0%).

In reply, please be informed that Section 108 (B) (4) of the 1997 Tax Code, as amended by Republic Act (RA) No. 10963, provides that:

> "Section 108. Value-Added Tax on Sale of Services and Use or Lease of Properties. —
>
> xxx xxx xxx
>
> "(B) Transactions subject to Zero Percent (0%) Rate. — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> > "(4) Services rendered to persons engaged in international shipping or international air transport operations, including leases of property for use thereof: *Provided*, That these services shall be exclusive for international shipping or air transport operations."

The above provision must be read in connection with Section 4.108-5 (b) (4) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 13-2018, to wit:

> "Section 4.108-5. **Zero-Rated Sale of Services**. —
>
> (b) Transactions subject to Zero Percent (0%) VAT Rate. — The following services performed in the Philippines by a VAT-registered person shall be subject to zero percent (0%) VAT rate:
>
> > (4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof: Provided, that these services shall be exclusively for international shipping or air transport operations. Thus, the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code;"

It is clear from the foregoing that services rendered by VAT-registered entities to persons engaged in international shipping are entitled to VAT zero-rating. Thus, the services rendered by TKP to foreign principals, paid for in foreign currency, are subject to VAT

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zero-rating pursuant to the above provisions. (BIR Ruling No. 295-2012 dated May 03, 2012)

However, it must be stressed that the above entitlement of Teekay Shipping Philippines, Inc. to VAT zero-rating does not extend to its services rendered to common carriers by sea with respect to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to VAT in accordance with Section 4.108-5 (b) (4) of RR No. 13-2018.

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,

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

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