March 13, 2018

BIR RULING NO. 463-18

Section 149, NIRC, as amended

Joson Jr. Law Firm Co.
Level 29 Joy Nostalg Centre, 17 ADB Avenue
Ortigas Center, Pasig City

Attention: *AAA*

Gentlemen :

This refers to your request on behalf of your client, SMC Asia Car Distributors Corp. (SMC Asia Car), for confirmation of your legal opinion that the importation of car accessories is not subject to excise tax under Section 149 of the National Internal Revenue Code of the Philippines (1997 Tax Code), as amended, but subject only to value-added tax (VAT) under Section 107 of the same Code.

It is represented that SMC Asia Car is a corporation duly organized and existing under and by virtue of the laws of the Philippines; that it is primarily engaged in the business of importing and distributing motor vehicles, motorcycles, parts and accessories; and that pursuant to its business purpose, SMC Asia Car imports from Germany car accessories designed to enhance the performance or exterior features of the motor vehicles.

For the clear and separate distinction between the "base vehicle" and the "accessories" for taxation purposes, SMC Asia Car formally requests for a Ruling confirming that unlike "base vehicles," the importation of "accessories" is not subject to excise tax under Section 149 of the 1997 Tax Code, as amended, but subject only to VAT under Section 107 of the same Code. The different tax treatment of both articles shall enable SMC Asia Car to properly and orderly comply with internal revenue regulations as well as streamline its corporate financial and accounting reportorial and processes. More importantly, it shall ensure that the proper duties and internal revenue taxes are correctly filed and paid during the required period.

In reply, please be informed that Section 149 of the 1997 Tax Code, as amended, provides:

> *"SEC. 149.* [1] *Automobiles. — There shall be levied, assessed and collected an ad valorem tax on automobiles based on the manufacturer's or*

Copyright 2020 CD Technologies Asia, Inc.

importer's selling price, net of excise and value-added tax, in accordance with the following schedule:

Effective January 1, 2018

Net manufacturer's price/importer's selling price	*Rate*
Up to Six hundred thousand pesos (P600,000)	*4%*
Over Six hundred thousand pesos (P600,000) to One Million pesos (P1,000,000)	*10%*
Over One Million pesos (P1,000,000) to Four Million pesos (P4,000,000)	*20%*
Over Four Million pesos (P4,000,000)	*50%*

Provided, That hybrid vehicles shall be subject to fifty percent (50%) of the applicable excise tax rates on automobiles under this Section: Provided, further, That purely electric vehicles and pick-ups shall be exempt from excise tax on automobiles.

As used in this Section —

(a) ***Automobile*** *shall mean any four (4) or more wheeled motor vehicle regardless of seating capacity, which is propelled by gasoline, diesel, electricity or any other motive power. Provided, That for purposes of this Act, buses, trucks, cargo vans, jeepneys/jeepney substitute, single cab chassis, and special purpose vehicles shall not be considered as automobiles.*

(b) ***Truck/cargo van*** *shall mean a motor vehicle of any configuration that is exclusively designed for the carriage of goods and with any number of wheels and axles: Provided, That pick-ups shall be considered as trucks.*

(c) ***Jeepney/jeepney substitutes*** *shall mean as "Philippine jeep or jeepney" which are of the jitney type locally designed and manufactured generally from surplus parts and components. It shall also include jeepney substitutes that are manufactured from brand-new single cab chassis or cowl chassis and locally customized rear body that has continuous sideway row seats with open rear door and without retractable glass windows.*

(d) ***Bus*** *shall mean a motor vehicle of any configuration with gross vehicle weight of 4.0 tons or more with any number of wheels and axles, which is generally accepted and specifically designed for mass or public transportation.*

(e) ***Single cab chassis*** *shall mean a motor vehicle with complete engine power train and chassis equipped with a cab that has a maximum of two (2) doors and only one (1) row of seats.*

(f) ***Special purpose vehicle*** *shall mean a motor vehicle designed for specific applications such as cement mixer, fire truck, boom truck, ambulance*

Copyright 2020 CD Technologies Asia, Inc.

and/or medical unit, and off-road vehicles for heavy industries and not for recreational activities.

(g) ***Hybrid electric vehicle*** *shall mean a motor vehicle powered by electric energy, with or without provision for off-vehicle charging, in combination with gasoline, diesel or any other motive power: Provided, That for purposes of this Act, a hybrid electric vehicle must be able to propel itself from a stationary condition using solely electric motor."*

xxx xxx xxx

The above-quoted provision imposes excise tax on automobiles defined as "any four (4) or more wheeled motor vehicle regardless of seating capacity, which is propelled by gasoline, diesel, electricity or any other motive power." Car accessories imported, which are non-mandatory, optional items that are separate and distinct from the base vehicle, do not fall within the purview of said definition of automobiles, hence not subject to excise tax under Section 149 of the 1997 Tax Code, as amended. The importation of car accessories, however, are considered importation of goods subject to VAT under Section 107 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 are different, then this ruling shall be considered null and void.

Very truly yours,

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

Footnotes

1. As amended by Republic Act No. 10963 or the TRAIN Act.

Copyright 2020 CD Technologies Asia, Inc.