**October 18, 2019**

# BIR RULING NO. 659-19

Section 109 (1) (T), NIRC; RR No. 15-2015; BIR Ruling No. 0260-19

*Evaristo and Sons Sea Transport Corp.*
Km. 4, National Highway, Brgy. Luna
Surigao City

Attention: *AAA*

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Gentlemen :

This refers to your letter dated August 17, 2019, requesting on behalf of **Evaristo and Sons Sea Transport Corp.**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) unit 2016-launched, 155.00 GT fast craft passenger ship named "**Nathan Ferry 3**," pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **Evaristo and Sons Sea Transport Corp.**, with Tax Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS201721120; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certification dated July 31, 2017 valid until July 30, 2020; and that **Evaristo and Sons Sea Transport Corp.** is currently importing one (1) Unit 2016-launched, 155.00 GT fast craft passenger ship which is particularly described as follows:

| | |
|---|---|
| Vessel's Name | Nathan Ferry 3 |
| Year Built | 2016 |
| Length | 46.686m |
| Breadth | 4.21m |
| Capacity | 321 Passengers |
| Main Engine | 2x yuchaiyc6c 9251-c20 @ 450KW/1100rpm |
| Auxiliary engine | 2 yuchai 40kba |

that MARINA has approved the importation of the above cargo ship in its letter dated

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August 2, 2019 addressed to **Evaristo and Sons Sea Transport Corp.**; and that per Sworn Statement dated September 25, 2019 executed by AAA, _____ of **Evaristo and Sons Sea Transport Corp.**, that the subject passenger ship cannot be manufactured domestically in comparable quality, technology and at reasonable price; and that it is reasonably needed and will be used exclusively by the company in its operations.

In support of its request for exemption, **Evaristo and Sons Sea Transport Corp.** has submitted the following documents:

1. Certified true copies of the SEC Certificate of Registration, Articles of Incorporation and By-Laws;

2. BIR Certificate of Registration;

3. Certified true copy of the Certificate of Registration with MARINA;

4. Certified true copy of the MARINA Authority to Import;

5. Boat Bill of Sale

6. Sworn Statement dated September 25, 2019.

In reply, please be informed that Section 109 (1) (T) of the NIRC of 1997, as amended, provides as follows:

> "***Sec. 109. 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 4.1091 (B) (1) (t) of the 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

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*(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."*

It is noted that "**Nathan Ferry 3**" is a 2016-launched, 155.00 GT fast craft passenger ship and has been issued by MARINA with the required authority to be imported. Hence, the importation of the said vessel by **Evaristo and Sons Sea Transport Corp.** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **Evaristo and Sons Sea Transport Corp.** of "**Nathan Ferry 3**" 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 subject vessel. *(BIR Ruling No. 0260-19 dated May 7, 2019)*

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. Renumbered by Republic Act No. 10378.

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