October 21, 2019

BIR RULING NO. 666-19

Section 109 (1) (T), NIRC; RR No. 15-2015; BIR RULING NO. 289-16

PNX-Chelsea Shipping Corporation
Stella Hizon Reyes Road
Bo. Pampanga, Davao City 8000

Attention: *AAA*

Gentlemen :

This refers to your letter dated September 7, 2016, requesting on behalf of **PNX-Chelsea Shipping Corporation**, for a Certificate of Value-Added Tax (VAT) Exemption on its importation of one (1) unit 2016 built 2,993.00 GRT oil tanker named **MK SATURN (TBN: M/T "CHELSEA DOMINANCE")**, pursuant to Section 109 (1) (T) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Documents submitted show that **PNX-Chelsea Shipping Corporation**, with Tax Identification No. 000-000-000-000, is a domestic corporation registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS201128641; that it is duly accredited by the Maritime Industry Authority (MARINA) to engage in domestic shipping business per MARINA Certification dated March 14, 2014 valid until March 27, 2017; and that **PNX-Chelsea Shipping Corporation** is currently importing one (1) unit 2016 built 2,993.00 GRT oil tanker which is particularly described as follows:

Name of Vessel	MK SATURN
IMO Number	9672301
Classification Society/Class	ABS
Year of Build	2016
Builder/Yard	FUJIAN MAWEI SHIPBUILDING LTD. CHINA
Grt/Nrt	2993/1159

that MARINA has approved the importation of the above oil tanker in its letter dated July

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14, 2016 addressed to **PNX-Chelsea Shipping Corporation**; and that per Sworn Statement dated September 5, 2016 executed by AAA, _____ of **PNX-Chelsea Shipping Corporation**, the subject vessel is not manufactured domestically in sufficient quantity and at a comparable quality at a reasonable price, and that it is reasonably needed and will be used exclusively by the Corporation for its operations.

In support of its request for exemption, **PNX-Chelsea Shipping Corporation** 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. Certificate of Registration with MARINA;

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

5. Shipbuilding Contract; and

6. Sworn Statement dated September 5, 2016.

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

> *"**Sec. 109. Exempt Transactions**. — 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 4.109-1 (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:*

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XXX XXX XXX

(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 **MK SATURN (TBN: M/T "CHELSEA DOMINANCE")** is a brand new vessel and has been issued by MARINA with the required authority to be imported. Hence, the importation of the said vessel by **PNX-Chelsea Shipping Corporation** is deemed compliant with the requirements on restriction on vessel importation and mandatory vessel retirement program of MARINA. Accordingly, the importation by **PNX-Chelsea Shipping Corporation** of **MK SATURN (TBN: M/T "CHELSEA DOMINANCE")** 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.

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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