October 21, 2019

BIR RULING NO. 668-19

Secs. 106 (A) (2) (b); 108 (B) (7); RA 9513; RR 16-05; BIR Ruling No. 358-17; BIR Ruling No. 751-18; BIR Ruling No. 1299-18

Pangea Green Energy Philippines, Inc.
68 Zamboanga Street, Area B, Barangay Payatas
Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 5, 2019 requesting for a ruling that Pangea Green Energy Philippines, Inc. ("PGEPI") is entitled to zero-rated value-added tax (VAT) on its purchases of local supplies, properties and services, including its lease payments, pursuant to Section 15 (g) par. 2 of Republic Act (RA) No. 9513, otherwise known as the "Renewable Energy Act of 2008."

Documents submitted show that PGEPI (TIN: 000-000-000-000) is a corporation organized and existing under the laws of the Philippines, duly registered with the Securities and Exchange Commission (SEC) under Company Registration No. CS200608066; that it is likewise registered with the Department of Energy (DOE) under Registration No. RE-2011-08-049a dated June 24, 2016 as a Renewable Energy (RE) Developer of 1.5 MW Biomass Power Plant Project located in Brgy. Payatas, Quezon City covered by Biomass Renewable Energy Operating Contract (BREOC) No. 2011-08-023 dated March 11, 2016; that the DOE issued a Certificate of Endorsement certifying that the 1.5 MW Payatas Landfill Methane Recovery and Power Generation Facility, owned and operated by PGEPI, is consistent with the Power Development Plan of the government pursuant to the provisions of RA No. 9136 or the Electric Power Industry Reform Act (EPIRA) of 2001; and that the DOE issued a Confirmation of Commerciality No. BCC2013-05-001a dated February 28, 2017, confirming the commerciality of the Landfill Methane Recovery and Power Generation Facility, which shall affirm PGEPI to develop and operate a biomass energy system with a capacity of 1.3 MW and a commitment to produce a minimum of 10,920 MWh annual generation.

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In reply thereto, please be informed that Section 15 (g) of RA No. 9513, provides, to wit:

> "SEC. 15. Incentives for Renewable Energy Projects and Activities. — RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:
>
> xxx xxx xxx
>
> (g) Zero Percent Value-Added Tax Rate. — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.
>
> All RE Developers shall be entitled to zero-rated value added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.
>
> This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors."

Clearly, under RA No. 9513, the sale of fuel or power generated from renewable sources of energy such as but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to Sec. 108 (B) (7) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Also, RA No. 9513 intended to exclude RE Developers from the coverage of the 12% VAT on their local purchases of goods and services needed for the development, construction and installation of their power plant facilities. Under said law, the local purchases of goods and services by RE Developers are subject to zero percent (0%) VAT provided that they are needed for the development, construction and installation of their power plant facilities. This is one of the fiscal incentives given by the government to encourage RE Developers including contractors and subcontractors to develop and utilize the renewable energy resources in the country.

Accordingly, PGEPI's sale of power/energy generated from its biomass energy resource facility shall be subject to zero percent (0%) VAT and the suppliers/sellers of goods and services of PGEPI, it being a RE Developer, should not pass on 12% VAT to its purchases of goods and services that will be used by PGEPI in its development, construction and installation of the 1.5 MW Biomass Power Plant Project located in Brgy. Payatas, Quezon City. *(BIR Ruling Nos. 078-2010 dated September 23, 2010 and 358-17*

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dated August 9, 2017)

It must be emphasized, however, that the zero-percent (0%) VAT on local purchases of goods and services shall be limited only to PGEPI's local purchases that will be used in its development, construction and installation of the 1.5 MW Biomass Power Plant Project located in Brgy. Payatas, Quezon City. Likewise, the grant of VAT zero-rating on local purchases is always subject to post audit verification by the Bureau of Internal Revenue (BIR) whether the purchased goods/services were indeed utilized in the development, construction and installation of the 1.5 MW Biomass Power Plant Project located in Brgy. Payatas, Quezon City. Finally, the processing of the application for VAT zero-rated transactions shall be done pursuant to Revenue Memorandum Order (RMO) No. 7-2006, in relation to Revenue Regulations (RR) No. 16-2005, as amended. *(BIR Ruling Nos. 751-18 dated April 30, 2018 and 1299-18 dated October 23, 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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