December 9, 2019

BIR RULING NO. 729-19

Sec. 109 (1) (R) of the Tax Code; RMC No. 75-2012; BIR Ruling No. 170-13

Maxcor Publishing House, Inc.
#132 Kalayaan Avenue, Brgy. Central,
Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 23, 2016, requesting on behalf of **MAXCOR PUBLISHING HOUSE, INC.**, for certificate of tax exemption on the importation, distribution and publication of local textbooks pursuant to Section 109 (1) (R) of the Tax Code of 1997, as amended.

It is represented that **MAXCOR PUBLISHING HOUSE, INC.**, with Taxpayer's Identification No. (TIN) 000-000-000-000, is a corporation organized and existing under the laws of the Philippines; that it is duly registered with the Securities and Exchange Commission (SEC) under SEC Reg. No. CS200919692 dated December 22, 2009; and that the primary purpose for which the corporation was formed is: *To carry on the business as an importer and publishers of newspapers, journals, magazines, books and other literary work and undertakings; and to carry on the business as printers, book sellers, book binders, paper makers, stationers, engraver, photographic printers, stereotypes, electro-types, bibliographers, machinists, silk screeners, or other related activities*.

In reply, please be informed that under Section 109 (1) (R) of the Tax Code of 1997, as amended, sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin, which appears at regular intervals with fixed prices for subscription and sale, and which is not devoted principally to the publication of paid advertisements is exempt from the imposition of the Value-Added Tax.

As such, regardless of the amount of the said transaction, if **MAXCOR PUBLISHING HOUSE, INC.** is actually engaged in the sale, importation, printing or publication of books, it will not be subject to the VAT provided that such books and newspaper, magazine, review or bulletin appear at regular intervals with fixed prices for

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subscription and sale and which are not devoted principally to the publication of paid advertisements. Neither will the company be required to pay the 3% percentage tax under Section 116, in relation to Section 109 (1) (BB) [1] of the same Code, as amended. *(BIR Ruling No. 170 dated May 6, 2013)*

In view thereof, **MAXCOR PUBLISHING HOUSE, INC.**'s business of importation, distribution and publication of books is exempt from the payment of VAT and from the 3% percentage tax under Section 116, in relation to Section 109 (1) (BB) of the 1997 Tax Code. *(BIR Ruling No. 170-13 dated May 6, 2013)*

With regard to the digital and other online educational products, Revenue Memorandum Circular No. 75-2012 made a clarification on the coverage of the VAT exemption under Section 109 (1) (R) of the 1997 Tax Code, as amended, to wit:

> "The terms "*book*," "*newspaper*," "*magazine*," "*review*" and "*bulletin*" as used in the provision refer to printed materials in hard copies. They do not include those in digital or electronic format or computerized versions, including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software."

Accordingly, if **MAXCOR PUBLISHING HOUSE, INC.** is engaged in to a business as printers, book binders, paper makers, stationers, engravers, photographic printers, stereotypes, electro-types, bibliographers, machinists, silk screeners and a wholesaler and/or retailer of digital and online educational products, being outside the purview of the term "books or any similar publication" for purposes of Section 109 (1) (R) of the 1997 Tax Code, it shall be subject to the 12% VAT. Thus, it is required to register its business as a VAT business entity and issue a separate VAT invoice/receipt to record such transactions.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. Being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to **MAXCOR PUBLISHING HOUSE, INC.** on its purchases of goods and services does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (1) (R) of the Tax Code of 1997, as amended, to avoid the passing on or shifting of the VAT.

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,

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

Footnotes

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

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