April 30, 2018

BIR RULING NO. 742-18

Section 109 (1) (H) of the Tax Code of 1997, as amended; BIR Ruling No. 373-11; BIR VAT Ruling No. 049-98

Canadian Tourism & Hospitality Institute, Inc.
2nd Flr. Paragon Plaza,
EDSA cor. Reliance Street
Mandaluyong City

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 2, 2012 which was forwarded to our office on August 15, 2012 requesting for the issuance of a Certificate of Value Added Tax (VAT) Exemption enjoyed by private educational institutions pursuant to Section 109 (1) (H) of the Tax Code of 1997, and as implemented by Section 4.109 (h) of Revenue Regulations No. 16-2005.

It is represented that **Canadian Tourism & Hospitality Institute, Inc.** with Taxpayer's Identification No. 000-000-000-000, is a stock corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. CS201101416; that it is recognized by the government and permitted by the Technical Education and Skills Development Authority (TESDA) in accordance with Certificate of Program Registration Nos. WTR201113042230, WTR201113042231, and WTR201113042232 all issued on July 25, 2011, to operate and offer Training Programs on Food and Beverage Services, Housekeeping and Front Office Services; and that the purposes for which it was incorporated are the following:

1. To provide career training and education courses and programs for interested local and international students in the field of travel, tourism, hospitality and other related fields;

2. To engage in the recruitment of participants from the general public to attend its short skill development seminars, its education certificate

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courses; and

3. To conduct enrichment and re-training seminars, courses and programs for those professionals already working in the industry.

Based on the foregoing representations, you now request for exemption from the payment of value-added tax (VAT) pursuant to Section 109 (1) (H) of the Tax Code of 1997, as amended, implemented by Revenue Regulations No. 16-2005, as amended.

In reply thereto, please be informed that Section 109 (1) (H) of the Tax Code of 1997, as implemented by Revenue Regulations No. 16-2005, as amended, provides, *viz.*:

"*SEC. 109. Exempt Transactions. —*

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value added tax.

xxx xxx xxx

(H) Educational services rendered by private educational institutions, duly accredited by the Department of Education (DepEd), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA) and those rendered by government educational institutions;

xxx xxx xxx"

Thus, under R.A. No. 9337, TESDA recognized or accredited institutions are exempt from VAT pursuant to Section 109 (H) thereof.

In view of the foregoing, **Canadian Tourism & Hospitality Institute, Inc.** shall be exempt from VAT pursuant to Section 109 (1) (H) of the Tax Code of 1997, as amended, on its educational services — the training programs on Food and Beverage Services NC II, Housekeeping NC II and Front Office Services NC II which are duly accredited by TESDA.

However, this exemption does not extend to other activities involving sale of goods and services which are subject to VAT imposed under Sections 106 and 108 of the same Code. Hence, as long as **Canadian Tourism & Hospitality Institute, Inc.** will not engage in the regular conduct or pursuit of a commercial or economic activity, including transactions incidental thereto, it will remain exempt from VAT.

On the other hand, **Canadian Tourism & Hospitality Institute, Inc.'s** purchases of goods and services, are subject to VAT imposed under Sections 106 and 108 of the Tax Code of 1997, as amended. It should be noted that VAT is an indirect tax payable by the seller and not by the purchaser. However, 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/purchaser as an addition to the cost of goods or services sold, it

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is no longer a tax but an additional cost which the buyer/purchaser has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to **Canadian Tourism & Hospitality Institute, Inc.** does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (1) (H) 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,

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

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