December 20, 2019

BIR RULING NO. 805-19

Republic Act No. 9513; BIR Ruling No. 1299-18; BIR Ruling No. 751-2018; BIR Ruling No. 78-2010

Reyes Tacandong & Co.
Citibank Tower, 8741 Paseo de Roxas
Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated August 3, 2018 requesting on behalf of EDC Burgos Wind Power Corporation confirmation that, being a Renewable Energy (RE) Developer, it is entitled to value-added tax (VAT) zero-rating on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its various plant facilities, which includes 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 contractors, pursuant to Section 15 (g) of Republic Act (RA) No. 9513, otherwise known as the "Renewable Energy Act of 2008."

It is represented that EDC Burgos Wind Power Corporation, with principal address at One Corporate Centre, Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Pasig City is a domestic corporation organized and existing under the law of the Republic of the Philippines, duly registered with the Securities and Exchange Commission (SEC) with SEC Company Registration No. CS201005729; that the main office is registered with the BIR under Revenue District Office No. 43A with TIN No. 000-000-000-000 and the project is registered under Revenue District Office No. 001 with TIN No. 000-000-000-001; that it is also registered with the Department of Energy (DOE) under Certificate of Registration No. WESC 2009-09-004 dated February 4, 2011 and Certificate of Confirmation of Commerciality (CoCoC) WCC 2013-04-001 and WCC-2013-10-009, issued on May 16, 2013 and December 3, 2013, respectively, as RE Developer of Wind Energy Resources located in the Municipality of Burgos, Province of Ilocos Norte, covered by Wind Energy

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Service Contract No. 2009-09-004 that took effect on September 14, 2009; that it is likewise registered with the Board of Investments (BOI) under Certificate of Registration No. 2011-135 as New Renewable Energy (RE) Developer of a 150 MW Wind Energy Power Generation Project (Burgos Ilocos Norte) under Republic Act (R.A.) No. 9513 or Renewable Energy Act of 2008. The BOI's Specific Terms and Conditions provides that the sale of power generated by the enterprise as well as its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities and the whole process of exploration and development of RE sources up to its conversion into power shall be subject to zero percent value-added tax pursuant to the NIRC.

In reply thereto, please be informed that Section 15 (g) of RA No. 9513, otherwise known as the "Renewable Energy Act of 2008," 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
>
> 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, 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 these 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.

Thus, the suppliers/sellers of good and services of EDC Burgos Wind Power Corporation, it being a DOE-certified RE Developer, should not pass on 12% VAT to the latter's purchases of goods and services that will be used by it in its development, construction and installation of power plant facilities relative to 150 MW Wind Energy Power Generation Project in Burgos, Ilocos Norte covered by Wind Energy Service Contract

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No. 2009-09-004. It must be emphasized that the zero-percent (0%) VAT shall be limited only to EDC Burgos Wind Power Corporation's local purchases of goods and services that will be used by it in its development, construction and installation of the 150 MW Wind Energy Power Generation Project. (BIR Ruling Nos. 78-2010 dated September 23, 2010 and 751-2018 dated April 30, 2018)

Likewise, the grant of VAT zero-rating shall be subject to post audit verification by the BIR whether the purchased goods/services were indeed utilized in the development, construction and installation of the 150 MW Wind Energy Power Generation Project. Finally, the processing of application for VAT zero-rated transactions should be done pursuant to Revenue Memorandum Order (RMO) 7-2006, in relation to RR No. 16-2005, as amended.

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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