May 29, 2018

BIR RULING NO. 969-18

Section 109 (1) (H), Tax Code of 1997, as amended; Revenue Regulations No. 16-2005; VAT Ruling No. 049-1998

Center for Excellence in Special Education (Stepping Stone) Foundation, Inc.
(Formerly: Development Center for the Handicapped Foundation, Inc.)
MRCI Camia Street, Guadalupe Viejo, Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 2, 2013, relative to your request from this Office for a ruling as to whether or not **CENTER FOR EXCELLENCE IN SPECIAL EDUCATION (STEPPING STONE) FOUNDATION, INC.**, is exempt from Value-Added Tax (VAT), pursuant to Section 109 (1) (H) of National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **CENTER FOR EXCELLENCE IN SPECIAL EDUCATION (STEPPING STONE) FOUNDATION, INC.**, with business address at MRCI Camia Street, Guadalupe Viejo, Makati City, is a corporation duly registered and existing under the laws of the Republic of the Philippines with Securities and Exchange Commission under SEC Company Registration No. 138834, dated March 9, 1987; that it is duly registered with the Bureau of Internal Revenue (BIR) with Taxpayers Identification No. (TIN) 000-000-000-000; that is duly accredited by the Department of Social Welfare and Development (DSWD) to operate as a social welfare and development agency implementing community-based programs and services for children with special needs; that is duly recognized by the Department of Education, Culture and Sports (DECS) with Government Recognition No. SP-0001, Series s. 1990 to operate a Complete Elementary Course for Special Children; and that the purposes for which the Foundation was incorporated are the following:

1) To promote and encourage the socio-economic advancement and physical and mental rehabilitation of learning disabled and physically handicapped children by establishing facilities for their education and acquisition of productive skills and trade and by assisting them in

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profitable employment of such skills and trade;

2) To establish care centers and other facilities for the purpose of providing medical services and nutritional assistance to handicapped children;

3) To organize, conduct and carry on any activity which is necessary for or incidental to the purpose of the Foundation and to exercise such power of perform all activities prescribed by the requisite majority of the Board of Trustees; and

4) To organize fund raising activities for the educational assistance of the handicapped, indigent students and/or children who wish to attend proper schooling through sponsorship programs, scholarship matching grants, donations and other activities that will generate sources of funds for educational assistance of the mentally and physically challenged children.

In reply, please be informed that **Section 109 (1) (H) of the NIRC of 1997, as amended by Republic Act No. 9337**, provides that:

> "**Sec. 109. Exempt Transactions.** — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the Value-added Tax:
>
> **(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."

Likewise, the provisions of **Revenue Regulations No. 16-2005**, implementing the aforesaid provision of law, provides, in clear and unmistakable language, under **Section 4.109-1 (B) (h)** thereof that:

> "**(h)** Educational services rendered by private educational institution 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.
>
> **"EDUCATIONAL SERVICES"** shall refer to academic, technical or vocational education provided by private educational institutions duly accredited by DepEd, the CHED, and TESDA and those rendered by government educational institutions and it does not include:
>
> 1) Seminars;
>
> 2) In-service training;

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3) Review classes;

4) And other similar services rendered by persons who are not accredited by the DepEd, the CHED and/or the TESDA."

Accordingly, the gross receipts of **CENTER FOR EXCELLENCE IN SPECIAL EDUCATION (STEPPING STONE) FOUNDATION, INC.** from rendering educational services in relation to its offering of a Complete Elementary Course for Special Children as recognized by the DepEd (under Government Recognition No. SP-0001, Series s. 1990) are exempt from the twelve percent (12%) VAT pursuant to Section 109 (H) of NIRC of 1997, as amended. ***(VAT Ruling No. 049-1998 dated December 2, 1998)***

However, this exemption does not extend to the Center's activities, other than rendering educational services or its purchase of goods or properties or services and importation of goods.

Section 105 of NIRC of 1997, as amended, provides that any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services and any persons who imports goods shall be subject to the VAT imposed in Sections 106 to 108 of the same Code.

The phrase ***"in the course of trade or business"*** means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity. It should be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. However, being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods or services sold, it is no longer a tax but an additional cost which the buyer/costumer has to pay in order to obtain the goods or services.

Accordingly, if **CENTER FOR EXCELLENCE IN SPECIAL EDUCATION (STEPPING STONE) FOUNDATION, INC.** is engaged in the sale of goods or services in the course of business pursuit, including transactions incidental thereto, its revenue derived therefrom shall be subject to the 12% VAT, in case the gross receipts from such sales exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00), or to the 3% percentage tax, if gross receipts do not exceed P1,919,500.00.

Consequently, the purchase of goods or properties or services and the importation of goods by the **CENTER FOR EXCELLENCE IN SPECIAL EDUCATION (STEPPING STONE) FOUNDATION, INC.** shall nevertheless be subject to the twelve percent (12%) VAT pursuant to Sections 106, 107 and 108 of NIRC of 1997, as amended by R.A. No. 9337 * and as implemented under Section 4.109-1 (B) (h) of Revenue

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Regulations No. 16-2005.

This ruling is being issued on the basis of 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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