REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Bureau of Internal Revenue Ruling

Sec. 109 (1) (G), NIRC of 1997, as amended; Sec. 4.109-1 (B) (1) (g), RR No. 16-2005	533-2017

Date: November 17, 2017

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36 / 927-09-63

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Suites 706 & 707 West Tower, Philippine Stock Exchange Centre,
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Attention: ATTY. AGATHA ZAPANTA-DE JESUS

Gentlemen:

This refers to your follow-up letter dated July 23, 2015, as indorsed by the Chief, Legal Division, Revenue Region No. 07, Quezon City, on behalf of the **NVISION MEDICAL, INC. (NVision)**, relative to your request for clarification as to the scope, interpretation, and application of Section 109 (1) (G) of the National Internal Revenue Code of 1997, as amended, in relation to Revenue Regulations No. 16-2005 otherwise known as the Consolidated Value-Added Tax Regulations of 2005, as amended by Revenue Regulations No. 4-2007.

In your letter, you asked in particular whether or not diagnostic tests like visual field testing, electrocardiography, refraction, ophthalmic services, and other laboratory tests **not** performed by medical doctors, fall within the coverage of medical services and, therefore, exempt from payment of VAT.

In reply, please be informed that Section 109 (1) (G) of the National Internal Revenue Code of 1997, as amended, 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:*
>
> *xxx xxx xxx*
>
> *G. Medical, dental, hospital and veterinary services except those rendered by professionals;*
>
> *xxx xxx xxx*"

In relation thereto, Section 4.109-1 (B) (1) (g) of Revenue Regulations No. 16-2005, as amended by Revenue Regulations No. 4-2007, states that:

> "*SEC. 4.109-1. VAT-Exempt Transactions. –*

xxx xxx xxx

(B) 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

g. *Medical, dental, hospital and veterinary services except those rendered by professionals;*

Laboratory services are exempted. xxx xxx xxx"

Based on the express provisions of the foregoing, it is clear that laboratory services are considered transactions exempt from VAT. The law did not distinguish whether such laboratory services are to be performed by medical doctors or not to be VAT exempt. When the law does not distinguish, neither should we distinguish. This is in accordance with one of the Latin phrases in statutory construction which states that:

"ubi lex non distinguit nec nos distinguire debemus" (when the law does not distinguish, we must not distinguish).[1]

Thus, insofar as the rendition of laboratory services by **NVision** is concerned, this Office hereby confirms that these are considered exempt from VAT. This includes diagnostic tests like visual field testing, electrocardiography, refraction, ophthalmic services, and other laboratory tests not performed by medical doctors. As service provider, **NVision** shall not pass on the VAT to its clients because said transactions are not subject to VAT.

However, in relation to the conduct of diagnostic services, whether such is also exempt from VAT shall depend on how it is provided. The process of diagnosis is defined as the discovery of the source of a patient's illness or the determination of the nature of his disease from a study of its symptoms. The conduct of diagnostic service may either be carried out by an employee of **NVision** (the service fee is payment for both diagnostic and laboratory services as a package) or by an independent professional (consultants).

The conduct of diagnostic service when done through the employees of **NVision** shall be exempt from VAT pursuant to Section 109 (1) of the National Internal Revenue Code of 1997, as amended, which 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

(l) Services rendered by individuals pursuant to an employer-employee relationship;

xxx xxx xxx"

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[1] *Vide Adasa vs. Abalos*, G.R. No. 168617, February 19, 2007, 516 SCRA 261, 280; *Philippine Free Press, Inc. vs. Court of Appeals*, G.R. No. 132864, October 24, 2005, 473 SCRA 639, 662

On the other hand, diagnostic services, when rendered by an independent professional (consultant), shall appropriately be subject to VAT.

In view thereof, this Office is of the opinion as it hereby holds that laboratory / diagnostic services of **NVision** except those rendered by independent professionals are exempt from VAT pursuant to Section 109 (l) of the National Internal Revenue Code of 1997, as amended. *[BIR RULING [DA-(VAT-108)] 750-09]*

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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