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

RA No. 9513
BIR Ruling No. 078-10 BIR Ruling No. 358-17 BIR Ruling No. 751-18 BIR Ruling No. 1299-18
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REYES TACANDONG & CO.
Citibank Tower, 8741 Paseo de Roxas
Makati City 1226

Attention: **Atty. William Benson S. Gan**
Tax Services

Gentlemen:

This refers to your letter dated August 3, 2018 requesting on behalf of your client, Bacman Geothermal Inc. (the "Company") for confirmation that the Company, a Department of Energy (DOE)-registered Renewable Energy (RE) Developer, 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 an 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".

Background:

The Company is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with registered address at One Corporate Centre, Julia Vargas Avenue corner Meralco Avenue, Ortigas Center, Pasig City. The Company is registered with the Securities and Exchange Commission (SEC) with Company Registration No. (and with Bureau of Internal Revenue (BIR) TIN

The primary purposes of the Company, as stated in its Amended Articles of Incorporation, are as follows:

> "To carry on the general business of generating, transmitting, and/or distributing energy derived from any and all forms, types and kinds of energy sources for lighting and power purposes and whole-selling the electric power to power corporations, public electric utilities and electric cooperatives; to enter into contracts either or alone or jointly with other companies or persons for the purposes of carrying out all businesses under which this corporation is organized; to acquire, build, construct, own, maintain, and operate all necessary and convenient buildings, structures, dows, machinery, sub-stations, transmission lines, poles, wires, and other things and devices, to acquire and hold water and flowage rights, and to acquire, lease, hold, occupy or use land rights-of-way and easement therein."

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Pursuant to its primary purposes, the Company, as an RE Developer, is engaged in the exploration, development, generation and sale of energy from renewable sources, such as geothermal energy. The Company uses the steam emanating from geothermal wells in order to generate electricity. The Company sells electric energy generated by the power plants owned, operated, and maintained by the Company using the said geothermal steam.

In the regular course of its operations and business as an RE Developer, the Company purchases goods, services, and properties from various local suppliers, contractors and subcontractors for the (i) development, construction, and installation of its plant facilities, and (ii) exploration and development of renewable energy sources up to their conversion into electric power.

The Company is a registered RE Developer with the BIR, DOE and Board of Investments (BOI) in respect of the RE activity in accordance with the provisions of RA No. 9513, as well as its Implementing Rules and Regulations, summarized as follows:

TIN	Site	DOE Certificates of Registration (COR) No.	BOI Cert. of Registration	Type of Registered Activity under BOI
[redacted]	Bacon, Sorsogon/ Manito Albay	[redacted] (issued on May 8, 2012	COR No. [redacted] dated Feb. 14, 2013	Renewable Energy Developer of Bac-Man Geothermal Power Plant Complex (130 MW)

The DOE, in its letter dated February 2, 2018 certified the availment of income tax holiday (ITH) incentives of the Company's Bacman Geothermal Power Plants under the Geothermal Operating Contract (GOC) No. [redacted]; that the aforesaid GOC is valid and subsisting; and that the Company is in compliance with its obligations under the said contract.

In reply thereto, please be informed that Section 15 (g) of RA No. 9513, 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
>
> <u>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.</u>
>
> <u>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."</u> (Underscoring ours)

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Clearly, RA No. 9513 intended to exclude RE Developers from the coverage of the 12% VAT on their local purchases of goods, properties and services needed for the development, construction and installation of their power plant facilities. Under said law, the local purchases of goods, properties 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, including the various transactions pertaining to the whole process of exploration and development of the geothermal source up to its conversion into power, including the services performed by contractors and subcontractors. 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.

Accordingly, the suppliers/sellers of goods and services of the Company, it being a RE Developer, should not pass on 12% VAT to its purchases of goods, properties and services that will be used by the Company in its development, construction and installation of the geothermal power plant covered by its Geothermal Operating Contract No. GOC and Geothermal Operating Contract No. duly issued by the DOE. This 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/or contractors. *(BIR Ruling Nos. 78-2010 dated September 23, 2010 and 358-17 dated August 9, 2017)*

It must be emphasized, however, that the zero-percent (0%) VAT on local purchases of goods, properties and services shall be limited only to the Company's local purchases that will be used in its development, construction and installation of the geothermal power plant covered by Geothermal Operating Contract No. and Geothermal Operating Contract No. issued by the DOE. This 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/or contractors. Likewise, the grant of VAT zero-rating on local purchases is always subject to post audit verification by the Bureau of Internal Revenue (BIR) whether the purchased goods/services were indeed utilized in the development, construction and installation of the geothermal power plant covered by its Geothermal Operating Contract No. GOC and Geothermal Operating Contract No. duly issued by the DOE. *(BIR Ruling Nos. 751-18 dated April 30, 2018 and 1299-18 dated October 23, 2018)*

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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