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

Bureau of Internal Revenue Ruling

Sections 34 (A) (1) (a), (b) and 237 of the NIRC of 1997, as amended		OT-0339-2020 JUN 19 2020

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

SURVEY SPECIALISTS, INC.
1st Floor, Pandiman Bldg., Gen. Luna cor.
Sta. Potenciana Sts., Intramuros, Manila

Attention: **MR. WILLIAM C. MATIAS**
Internal Audit Manager/Financial Representative

MS. MARICEL A. COCHING
Treasurer

Gentlemen:

This refers to your letter dated February 13, 2017 requesting for a ruling allowing **Survey Specialists, Inc. ("SSI" for brevity)** to claim ordinary and necessary expenses substantiated by other adequate records like acknowledgment receipts, statements of accounts and/or vouchers as allowable deductions from its gross income.

Background:

SSI is a corporation duly organized and existing under the laws of the Republic of the Philippines registered with the Securities and Exchange Commission (SEC) under Registration Number [redacted]. It is presently engaged in various types of marine/maritime survey including but not limited to Hull and Machinery Surveys and Cargo Surveys, wherein its surveyors composed of maritime engineers, naval architects and engineering graduates, need to go onboard the ship and other survey sites to be surveyed which is docked at berth, anchored and within the Philippine port limits.

In order for SSI to render marine/maritime surveys at a given survey site, which most of the time is on urgent basis, it must engage the services of local transportation like boat/banca, tricycle, habal-habal (modified tricycle) or van. The hiring of a boat/banca, which is usually a small boat used by local fishermen in their day-to-day fishing activities, is essential to board or disembark to and from the vessel (survey site); while hiring of a tricycle, habal-habal or van is necessary to travel from airport/city to the shoreline.

Aside from the transportation expenses, travelling in remote areas in Mindanao like Tawi-Tawi, where there are underlying threats of maritime kidnapping as a result of the unending insurgency or terrorism and rampant lawlessness, the apparent need to engage security services of some locals who are hesitant to disclose their personal identity is often resorted to by the surveyors to ensure their safety. Oftentimes, in loading nickel ore and other related surveys, the surveyors need an assistant, usually a barge sampler who is already on board the vessel.

Considering the factual milieu on the conduct of survey/s, the expenses on transportation, security services, and barge sampler are more likely than not, incurred and paid to these service providers who are not registered with the Bureau of Internal Revenue (BIR). Thus, they do not have and unable to issue BIR registered official receipts. SSI cannot even require them to get their Taxpayers Identification Number (TIN) for them to issue an official receipt, since these group of people are locals in a very remote area/s and most of them are unschooled and indigent fishermen, boatmen, and laid off resident. Also, SSI does not repeatedly engage the services of the same people because due to the nature of the work, SSI may only hire those who are available at a given time and place.

Therefore, proof of payment on the expenses on transportation, security services, and barge sampler can only be proven by written acknowledgment receipt/s and/or vouchers which are the only available means to substantiate the incurrence of the said expenses necessary in the conduct of SSI's business as a marine/maritime surveyor.

In view of the foregoing, you now request for a ruling that SSI will be allowed to claim such expenses substantiated by other adequate records like acknowledgment receipts, statements of accounts and/or vouchers, as allowable deductions from its gross income.

In reply, please be informed that Section 34 (A) (1) (a) and (b) of the National Internal Revenue Code of 1997, as amended, provides *viz*:

> "*SEC. 34. Deductions from Gross Income. - Except for taxpayers earning compensation income arising from personal services rendered under an employer-employee relationship where no deductions shall be allowed under this Section other than under subsection (M) hereof, in computing taxable income subject to income tax under Sections 24(A); 25(A); 26; 27(A), (B) and (C); and 28(A)(1), there shall be allowed the following deductions from gross income;*
>
> *(A) Expenses. -*
>
> *(1) Ordinary and Necessary Trade, Business or Professional Expenses. -*
>
> *(a) In General. - There shall be allowed as deduction from gross income all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to, the development, management, operation and/or conduct of the trade, business or exercise of a profession. . . . .:*
>
> *xxx xxx xxx*
>
> *(b) Substantiation Requirements. - No deduction from gross income shall be allowed under Subsection (A) hereof unless the taxpayer shall substantiate with sufficient evidence, **<u>such as official receipts or other adequate records:</u>** (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer.*" (Emphasis and underscoring supplied)

Under the above-quoted provision, there shall be allowed as deduction from gross income all ordinary and necessary expenses paid or incurred during the taxable year provided that the taxpayer shall substantiate such expenses with sufficient evidence, such as <u>official receipts or other adequate records</u>, the amount of the expense being deducted, and the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer. The official receipts or other adequate records mentioned herein embraces any document evidencing delivery, agreement to sell or transfer of goods and services which includes but are not limited to delivery receipts, order slips, debit and/or credit memo, purchase order, job order, provisional/temporary receipt, acknowledgement receipt, collection receipt, cash receipt, bill of lading, billing statement, statement of account, and any other documents, by whatever name it is known or called, whether prepared manually (handwritten information) or pre-printed/pre-numbered loose-leaf (information typed using excel program or typewriter) or computerized as long as it is used in the ordinary course of business being issued to customers or otherwise. However, for these documents to be used by taxpayers to substantiate the ordinary and necessary expenses incurred as deductions from gross income, these documents must be registered with the BIR pursuant to Revenue Regulations (RR) No. 18-2012[1] dated October 22, 2012 and Revenue Memorandum Order (RMO) No. 12-2013[2] dated May 2, 2013.

Moreover, Section 237 of the National Internal Revenue Code of 1997, as amended, is very clear that issuance of receipts or sales or commercial invoices by all person subject to an internal revenue tax for each sale or transfer of merchandise or for services rendered valued at (P) or more, is mandatory. The said provision states that:

> *"SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. -* ***All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service:*** *Provided, however, That where the receipt is issued to cover payment made as rentals, commissions, compensations, fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided, further, That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer Identification Number (TIN) of the purchaser."* (Emphasis and underscoring supplied)

Furthermore, Revenue Memorandum Circular (RMC) No. 07-2014[3] dated February 5, 2014, clarified that even marginal income earners (MIE) or those individuals whose business do not realize gross sales or receipts exceeding P in any 12-month period, or those persons whose activities are principally for subsistence or livelihood, which shall include but not limited to agricultural growers/producers (farmers/fishermen) selling directly to ultimate consumers, small sari-sari stores, small carinderias or "turo-turos", drivers/operators of a single unit tricycle, and such, but shall not include licensed professionals, consultants, artists, sales agents, brokers and others similarly situated, including all others whose income have been subjected to withholding tax, are required to register with the BIR. The said RMC provides that:

> *"Registration and Compliance Requirements*
>
> *The incidence of being a MIE as required under RR 7-2012 covers the following privileges and minimum registration and tax compliance requirements:*

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[1] Regulations in the Processing of Authority to Print (ATP) Official Receipts, Sales Invoices, and Other Commercial Invoices Using the On-line ATP System and Providing for the Additional Requirements in the Printing Thereof.

[2] Prescribing Work-Around Guidelines and Procedures in the Processing of Authority to Print (ATP) Official Receipts (ORs), Sales Invoices (SIs) and Other Commercial Invoices (CIs) in the Interim Period until the On-line ATP System Pursuant to Revenue Regulations (RR) No. 18-2012 is Fully Developed.

[3] Clarifying the Issues on the Registration and Compliance Requirements of Marginal Income Earners Pursuant to Revenue Regulations No. 7-2012.

1. *Registration with the Bureau using BIR Form 1901 with the following minimal documentary requirements:*

   i. Sworn Statement of Income for the year (Annex "A"); and
   ii. NSO Certified or Local Civil Registry Birth Certificate.

2. *Exemption from the payment of Annual Registration Fee (ARF);*

3. *Registration of Books of Accounts (e.g., two-column journal or other simplified books for daily expenses and revenues);*

4. ***Issuance of registered principal receipts/sales invoices as prescribed under RMO 12-2013;***

5. *Filing and Payment of Annual Income Tax Return using BIR Form 1701 similar to any other self-employed individuals; and*

6. *Exemption from payment of business taxes (i.e., VAT or any Percentage Tax)."*

Premises considered, this Office hereby rules that SSI may be allowed to claim ordinary and necessary expenses substantiated by other adequate records like acknowledgment receipts, statements of accounts and/or vouchers as allowable deductions from its gross income, provided that such documents are registered with the BIR. Otherwise, SSI cannot claim such expenses as allowable deductions from its gross income.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it shall 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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