REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

**Quezon City**

| |
|---|
| *Sections 106, 108 & 109 of the NIRC* |
| *BIR Ruling 099-2011* |
| 0665-2019 |

OCT 2 1 2019

**KLM Royal Dutch Airlines**
39th Floor Yuchengco Tower RCBC Plaza corner
Sen. Gil Puyat and Ayala Avenue
Makati City 1200

Attention: **Jurriann Pieter Stelder**
General Manager

Gentlemen:

This refers to your letter dated August 26, 2013 requesting confirmation of the value-added tax (VAT) status of **Koninklijke Luchtvaart Maatschappij N.V. (KLM) Royal Dutch Airlines ("KLM")** for purchases and availment of supplies and services from local suppliers.

It is represented that **KLM** is a foreign air carrier organized and existing under the laws of the Netherlands with Philippine business address at 39th Floor, Yuchengco Tower, RCBC Plaza corner Sen. Gil Puyat and Ayala Avenue, Makati City; that it was issued a license to establish its branch office in the Philippines on August 8, 1955; that it has been granted landing rights in the Philippines to perform international air transportation services/activities or flight operations from the Philippines to anywhere in the world and vice-versa; that it flies directly from the Philippines directly to foreign port without docking or stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic airport; that it currently purchases and avails of supplies and services from local suppliers which consist of office and operational supplies, computers, printers, catering for its flights and rental for its office spaces which are all intended and attributable to its business of transporting by air goods and passengers from the Philippines to any port in the world.

Based on the above representation, you now seek to confirm the VAT status of **KLM** with respect to its purchases and availment of supplies and services from local suppliers.

0665-2019
OCT 21 2019

In reply, please be informed that Sections 106 A (2)(a)(6), 108 B (4) and 109 (1)(O) of the NIRC, as amended, provide:

***"Sec. 106 Value-added Tax on Sale of Goods or Properties.***—*xxx*

*(2) The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:*

*(a) Export Sales. – The term "export sales" means:*

*xxx xxx xxx*

*(6) The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations. (Added by R.A. No. 9337). xxx"*

***"Sec. 108. Value-added Tax on Sale of Services and Use or Lease of Properties.—xxx***

*(B) Transactions Subject to Zero Percent (0%) Rate. – The following services performed in the Philippines by VAT-registered person shall be subject to zero percent (0%) rate:*

*xxx xxx xxx*

*(4) Services rendered to persons engaged in international shipping or international air-transport operations, including leases of property for use thereof. xxx"*

***"Sec. 109. Exempt Transactions. –***

*(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*

*(2)*

*xxx xxx xxx*

*(O) Export Sales by persons who are not VAT-registered"*

Furthermore, Sections. 4.106-5 and 4.108-5 of Revenue Regulations No. 04-07 amending certain provisions of *Revenue Regulations No. 16-2005*, otherwise known as the consolidated Value-Added Tax Regulations of 2005, which is further clarified by *Revenue Memorandum Circular 46-2008*[1], provide:

---

[1] Q-11: *Are sales of goods, supplies, equipment, fuel and services to persons engaged in international air transport operation subject to VAT?*

A-11: The sale of goods, supplies, equipment, fuel and services (including leases of property) to the common carrier to be used in its international air transport operations is zero-rated. *Provided*, that the same is limited to goods, supplies, equipment, fuel and services pertaining to or attributable to the transport of goods and passengers from a port in the Philippines directly to a foreign port without docking or stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic port; *Provided, further*, that if any portion of such fuel, equipment, goods

0665-2019
OCT 21 2019

**"Sec. 4.106-5. Zero-Rated Sales of Goods or Properties. --**

*xxx xxx xxx.*

*(6) The sale of goods, supplies, equipment and fuel to persons engaged in international shipping or international air transport operations; Provided, that the same is limited to goods, supplies, equipment and fuel pertaining to or attributable to the transport of goods and passengers from a port in the Philippines directly to a foreign port, or vice versa, without docking or stopping at any other port in the Philippines unless the docking or stopping at any other Philippine port is for the purpose of unloading passengers and/or cargoes that originated from abroad, or to load passengers and/or cargoes bound for abroad; Provided, further, that if any portion of such fuel, goods or supplies is used for purposes other than that mentioned in this paragraph, such portion of fuel goods and supplies shall be subject to twelve percent (12%) output VAT starting February 1, 2006."*

*xxx xxx xxx.*

**"SEC. 4.108-5. Zero-Rated Sale of Services. —**

*xxx xxx xxx.*

*(b) Transactions Subject to Zero Percent (0%) VAT Rate. — . . .*

*(4) Services rendered to persons engaged in international shipping or air transport operations, including leases of property for use thereof; Provided, however, that the services referred to herein shall not pertain to those made to common carriers by air and sea relative to their transport of passengers, goods or cargoes from one place in the Philippines to another place in the Philippines, the same being subject to twelve percent (12%) VAT under Sec. 108 of the Tax Code starting Feb. 1, 2006;*

*xxx xxx xxx."*

Based on the foregoing, in order to qualify for zero-rating, the sale of goods, supplies, equipment, fuel and services rendered by a VAT-registered person to a person engaged in international air transport operations must pertain to or must be attributable

---

or supplies and services is used for purposes other than that mentioned in this paragraph, such portion of fuel, equipment, goods, supplies and services shall be subject to 12% VAT.

Q-14: *Which transactions with international air transport operators are zero-rated?*

A-14: Sale of services to persons engaged exclusively in international air transport operations, including leases of property for use thereof, and the sale of goods, supplies, equipment and fuel are zero-rated. However, sale of goods, supplies, equipment and fuel as well as services rendered to persons engaged in both domestic and international operations shall be zero-rated only with respect to the portion that will be used in their international operations.

0665-2019
OCT 21 2019



to the transport of goods and passengers from a port in the Philippines directly to a foreign port without docking or stopping at any port in the Philippines.

Accordingly, **KLM**'s purchases of office and operational supplies, computers and printers, as well as the catering services for its flights, from VAT-registered local suppliers which are all intended and attributable to **KLM's** business of transporting by air, goods and passengers from the Philippines to any port in the world without docking or stopping at any other port in the Philippines to unload passengers and/or cargoes loaded in and from another domestic airport are subject to **zero percent (0%) VAT rate**. However, the sale of the aforesaid supplies and services to **KLM** by persons who are not VAT-registered is **exempt** from VAT.

As regards the lease of office space, while said service is not being rendered to the aircraft itself, the same can be characterized as service directly connected with or attributable to the transport of goods or passengers from the Philippines to a foreign port and, thus, subject to **zero percent (0%) VAT**. However, the lease of office space to **KLM** by persons who are not VAT-registered is **exempt** from VAT.

This ruling is issued on the basis of the facts as represented. However, if upon investigation, it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

**CAESAR R. DULAY**
Commissioner of Internal Revenue
029930

K-1