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

Section 109 (1)(A) of the Tax Code of 1997, as amended
BIR Ruling No. 557-2019 BIR Ruling No. 283-2015 BIR Ruling No. 039-1998
VAT-386-2021
OCT 1

SAN MIGUEL FOODS, INC.
100 E. Rodriguez Jr. Avenue
Brgy. Ugong, Pasig City

Attention: **Florence P. Pavon**
Chief Finance Officer

Gentlemen:

This refers to your request, on behalf of SAN MIGUEL FOODS, INC. ("SMFI", for brevity), for confirmation that the sale of chicken, pork, beef and other meat products (the "Meat Products"), which have undergone the simple processes of preparation and preservation for the market, is considered a sale of such products in their original state, thus, exempt from value added tax (VAT) under Section 109 of the National Internal Revenue Code of 1997 (Tax Code), as amended.

It is represented that SMFI (TIN: , is a domestic corporation organized and existing under the laws of the Philippines to primarily "carry on the business of acquiring, breeding, raising, slaughtering, preserving, processing, dealing in and selling chicken, fowl, cattles, calves, hogs, goats, sheep, lambs, fish, other animals for food purposes and all kinds of poultry and livestock for food purposes."

Pursuant to the foregoing, SMFI sells raw or uncooked Meat Products. Prior to the sale thereof in chicken stations set up in supermarkets and meat shops, as well as sales to operators of lechon manok (i.e., Chick 'n Juicy) outlets, the Meat Products undergo the simple processes of preparation and preservation for the market through cutting, slicing, deboning, stuffing in raw hog casing, formed into shapes such as patties or balls, wrapped in flour, shredding, grounding, skewering, chilling or blast frozen and the addition of nitrite preservatives, salt, pepper, sugar, honey, cayenne, spices, seasonings, vinegar, soy sauce, liquid condiments/ingredients, ginger, garlic, herbs, raw/fresh vegetables, lemongrass, sesame, breadcrumbs and/or flour/flour based breading.

You now request for confirmation that the sale by SMFI of the Meat Products, as well as other products similarly prepared and preserved, falls within the purview of the definition of food products in their original state, thus, exempt from VAT under Section 109(1)(A) of the Tax Code, as amended.

In reply, please be informed that Section 109(1)(A) of the Tax Code, as amended, provides:

> "*SEC. 28. **Exempt Transactions.** — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*
>
> *(A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.*
>
> *Products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting, smoking or stripping. Polished and/or husked rice, corn grits, raw cane sugar and molasses, ordinary salt, and copra shall be considered in their original state;" (emphasis supplied)*

Relative thereto, Revenue Regulations (RR) No. 16-2005, as amended, provides:

> *"SECTION 4.109.-1. VAT-Exempt Transactions. –*
>
> *(B) Exempt Transactions. –*
>
> *(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:*
>
> *(a) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.*
>
> *Livestock shall include cows, bulls and calves, pigs, sheep, goats and rabbits. Poultry shall include fowls, ducks, geese and turkey. Livestock or poultry does not include fighting cocks, race horses, zoo animals and other animals generally considered as pets.*
>
> *xxx xxx xxx*
>
> *Meat, fruit, fish, vegetables and other agricultural and marine food products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, roasting,*

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> *smoking or stripping, including those using advance technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra-pack, and other similar packaging methods.* " *(Emphasis supplied)*

Based on the above-cited provisions, it is clear that for as long as SMFI's chicken, beef or pork meat products are sold raw and uncooked, the same are still considered agricultural food products in their original state, and therefore exempt from VAT. This necessarily includes raw meat products which have undergone simple processes of "preparation" i.e. cutting, slicing, deboning, stuffing in raw hog casing, formed into shapes such as patties or balls, wrapped in flour, shredding, grounding, skewering, chilling or blast frozen and "preservation" through "salting" and "curing" it with nitrite preservatives, salt, pepper, sugar, honey, cayenne, spices, seasonings, vinegar, soy sauce, liquid condiments/ingredients, ginger, garlic, herbs, raw/fresh vegetables, lemongrass, sesame, breadcrumbs and/or flour/flour based breading, even as the meats are packed or contained "using advanced technological means".

The foregoing adheres to the legislative intent of Congress which even considers "broiling" and "roasting" of chicken (i.e. lechon manok) as covered by the VAT exemption. As "preparation" and "preservation" are basic food methods and requires lesser processes than "broiling" and "roasting" (cooking), SMFI's raw and uncooked meat products fall well within the coverage of Section 109(1)(A) of the Tax Code and Revenue Regulations (RR) No. 16-2005.

The records of the Bicameral Conference Committee show the following deliberations, to wit:

> *"MR. DAMASING: More or Less, Your Honor, can you give us just few example that would show that the House is more receptive to the cry of the poor people rather than the Senate.*
>
> *"MR. JAVIER (E). Well, for example, your Honor, one is we were able to get a presumptive tax credit for certain items – food items which are being purchased mostly by our workers. Like, sardines, canned fish, milk, sugar and then cooking oil. Then another, would be – we refined the definition of agricultural products. For example, it now included roasting and broiling. So, if our worker who goes home at night because of traffic stops at ANDOK'S LECHON, and buys roasted chicken on a take-out basis NO VAT will be imposed on his purchase of that roasted chicken." (Emphasis supplied)*

The foregoing discussion of Congress was the same basis in *BIR Ruling No. 0557-2019* dated October 3, 2019 confirming that the sale of chicken, which has undergone the simple process of roasting, on a take-out basis, is covered by the VAT-exemption under Section 109(1)(A) of the Tax Code, as amended.

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In view of the foregoing, we hereby confirm your opinion that the sale by SMFI of its Raw and Uncooked Meat Products, which had undergone the simple processes of preparation and preservation, which are still considered food products in their original state, is exempt from VAT pursuant to Section 109(1)(A) of the Tax Code, as amended.

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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