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

Sec. 109 (1) (R) of the Tax Code of 1997, as amended	
BIR Ruling No. 102-14; BIR Ruling No. 421-13	
#005-2018 1-10-2018	

MGO Enterprises
513 J. Marzan Street, Barangay 448,
Zone 44, Sampaloc, Manila 1008

Attention : **Marissa G. Olle**
Proprietress

Gentlemen:

This refers to your letter dated April 6, 2015 requesting for renewal of BIR Ruling No. 083-2014 in connection with the sale of publication materials, like textbooks, workbooks and other educational materials.

It is represented that MGO Enterprises (TIN [illegible] is duly registered with the Department of Trade and Industry (DTI) under Certificate No. [illegible] as a retailer of books, school and office supplies, instruction materials, garden tools, agricultural supplies and equipment, and marine products; that pursuant to BIR Ruling No. 083-2014 dated March 4, 2014, MGO Enterprises' sale of books are exempt from the payment of VAT and from the 3% percentage tax under Section 116, in relation to Section 109 (V) of the 1997 Tax Code; and that National Book Development Board (NDBD) Certificate of Registration No. [illegible] is valid until April 30, 2017.

In support of its request, MGO Enterprises submitted the following documents:

1. BIR Certificate of Registration;
2. BIR Ruling No. 083-2014 dated March 4, 2014;
3. Certified true copy of NBDB Certificate of Registration No. [illegible] covering the following classification:
   a. Book and/or E-Book Seller (Retail/Wholesale);
   b. Book Printer; and
   c. Book and/or E-Book Publisher

In reply, please be informed that under Section 109 (1) (R) of the 1997 Tax Code, as amended, the "*sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin, which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements is exempt from the imposition of the VAT.*"

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#005-2018
1-10-2018

The above provision is being implemented by Revenue Regulations (RR) No. 16-2005. Section 4.109-1 (B) (r) thereof, provides that —

> *"(r) Sale, importation, printing or publication of books and any newspaper, magazine, review, or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements;"*

shall be exempt from VAT.

Prescinding from the above-cited provisions, it is clear that there are four (4) activities that are exempt from the coverage of VAT, i.e., sale, importation, printing and publication of books, newspapers, magazines, reviews and bulletins. Moreover, the features of the said items, like magazine, should appear at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements. (BIR Ruling No. 102-14 dated March 25, 2014)

The term "book" has been defined as "a literary composition which is printed; a printed composition bound in volume." (Scoville V Toland 21 Fed. Cas. 864 Black's Law Dictionary)

Moreover, under Section 3 (a) of Republic Act (RA) No. 8047 known as the "Book Publishing Industry Development Act", "Book" as defined by the United Nations Educational Scientific and Cultural Organization (UNESCO), is a printed non-periodical publication of at least forty-eight (48) pages, exclusive of cover pages, published in the country and made available to the public. (BIR Ruling No. 421-13 dated November 14, 2013)

Applying the foregoing, MGO Enterprises' sale, printing and publishing of books, which meet the above quoted statutory requirement of RA No. 8047, i.e., at least forty-eight (48) pages, is qualified for exemption from VAT and from the 3% percentage tax under Section 116, in relation to Section 109 (1)(V) of the 1997 Tax Code, as amended. However, the sale of other materials not mentioned on Section 109 (1)(R) of the same Code is subject to VAT and taxpayer shall be required to register its business as VAT business entity and must issue a separate VAT invoice/receipt therefor to record the same.

With regard to the sale and publishing of non-print information materials and electronically printed materials, such as electronic books, this Office had the occasion to rule in BIR Ruling No. 340-2011 dated September 7, 2011, that the term "book" for purposes of the VAT law only applies to printed matters in hard copy. It does not apply to electronic copy of any book or publication, thus:

> *"CD-ROM comes within the purview of the 'goods or properties', hence, the sale thereof made in the course of trade or business of the seller is subject to VAT pursuant to Section 99 in relation to Section 100 of the aforesaid NIRC. An electronic copy of any publication does not come within the purview of the terms 'books, newspapers, periodicals, magazine, review or bulletin' for the purpose of VAT exemption as*

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#005-2018
1-10-2018

provided under Section 103(y) of the aforesaid NIRC. The said terms only apply to printed matters in hard copy as expressly provided therein. The term "book" has been defined as "A literary composition which is printed; a printed composition bound in volume." (Scoville V Toland 21 Fed. Cas. 864 BLACK'S LAW DICTIONARY)

Accordingly, electronic copy of any book or publication, such as in CD-ROM does not come within the purview of the VAT exemption provided under Section 109 (y), NIRC, as amended by RA No. 8241, and as renumbered by R.A. No. 8424 (now Sec. 109 (1)(R) of the 1997 Tax Code), as follows:

> *(y) Sale, importation, printing or publication of books and any newspaper, magazine, review or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of paid advertisements."*

In view of the foregoing, the sale and publishing of non-print information materials, electronic copies of books and other instructional materials by MGO Enterprises, being outside the purview of the term "books or any similar publication" for purposes of Section 109 (1)(R) of the 1997 Tax Code, are subject to the 12% VAT. Thus, it is required to continue as a VAT business entity and issue a separate VAT invoice/receipt therefor to record such transactions. *(BIR Ruling No. 102-14 dated March 25, 2014)*

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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