REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act No. 9513
BIR Ruling No. 078-10
#357-2017

8-9-2017
Date

UNITED HOLDINGS POWER CORPORATION
1032 EDSA, Quezon City

Attention: **Dominic L. Sytin**
President/CEO

Gentlemen:

This refers to your letter dated May 5, 2014 requesting on behalf of United Holdings Power Corporation (UHPC) confirmation that, being a Renewable Energy (RE) Developer of the 10 MW Maladugao River Lower Cascade Hydropower Project in Bukidnon, UHPC is entitled to zero percent (0%) value-added tax (VAT) on its sale of energy generated from renewable resources and its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities pursuant to Republic Act (RA) No. 9513, otherwise known as, the "Renewable Energy Act of 2008."

Documents submitted show that UHPC (TIN:) is a corporation organized and existing under the laws of the Philippines, duly registered with the Securities and Exchange Commission (SEC) with SEC Company Registration No. that it is likewise registered with the Department of Energy (DOE) under Registration No. dated March 19, 2014 as Renewable Energy (RE) Developer of 10.00 MW Maladugao River (Lower Cascade) Hydroelectric Power Project in Kalilangan, Bukidnon covered by Hydropower Service Contract No. that took effect on March 19, 2014; and that the DOE has already confirmed the commerciality of the 10 MW Lower Maladugao Hydropower Project per DOE Confirmation of Commerciality No. issued on April 14, 2015.

In reply thereto, please be informed that under Section 4.108-5 of Revenue Regulations (RR) No. 16-05, as amended, it is provided that the sale of power or fuel may be entitled to zero percent (0%) VAT provided that the power or fuel is generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels. The aforesaid Section states:

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

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

xxx xxx xxx

(7) Sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal and steam, ocean energy, and other emerging sources using technologies such as fuel cells and hydrogen fuels; Provided, however, that zero-rating shall apply strictly to the sale of power or fuel generated through renewable sources of energy, and shall not extend to the sale of services related to the maintenance or operation of plants generating said power.

xxx xxx xxx"

Accordingly, the sale by UHPC of power generated through the 10.00 MW Maladugao River Lower Cascade Hydropower Project in Kalilangan, Bukidnon shall be subject to zero percent (0%) VAT.

Moreover, Section 15 of RA No. 9513 provides that:

> "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:
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> xxx xxx xxx
>
> (g) Zero Percent Value-Added Tax Rate. —
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> 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>
>
> xxx xxx xxx."

Clearly, RA No. 9513 intended to exclude RE Developers from the coverage of the 12% VAT on their local purchases of goods and services needed for the development, construction and installation of their power plant facilities. Under said law, the local purchases of goods and services by RE Developers are subject to zero percent (0%) VAT provided that they are needed for the development, construction and installation of their power plant facilities.

Thus, the suppliers/sellers of goods and services of UHPC, it being a DOE-certified RE Developer, should not pass on 12% VAT to the latter's purchases of goods and services that will be used by it in its development, construction and installation of power plant facilities relative to the 10.00 MW Maladugao River Lower Cascade Hydropower Project in Kalilangan, Bukidnon covered by Hydropower Service Contract No. . It must be emphasized that the zero-percent (0%) VAT shall be limited only to UHPC's local purchases of goods and services that will be used by it in its development, construction and installation of the 10.00 MW Maladugao River Lower Cascade Hydropower Project in Kalilangan, Bukidnon. (*BIR Ruling No. 078-2010 dated September 23, 2010*)

Likewise, the grant of VAT zero-rating shall be subject to post audit verification by the BIR whether the purchased goods/services were indeed utilized in the development, construction and installation of the 10.00 MW Maladugao River Lower Cascade Hydropower Project. Finally, the processing of application for VAT zero-rated transactions should be done pursuant to RMO 7-2006, in relation to RR No. 16-2005, 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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