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

Republic Act No. 9513
BIR Ruling No. OT-0320-2020; BIR Ruling No. OT-0290-2020; BIR Ruling No. VAT-0218-2020; BIR Ruling No. 0805-2019;
VAT- 351-2022
JUL 05 2022

Bac-Man Geothermal, Inc.
Green Core Geothermal, Inc.
Energy Development Corporation
EDC Burgos Wind Power Corporation
6th Floor, Rockwell Business Center, Tower 3
Ortigas Avenue, Pasig City

Attention: **Maribel A. Manlapaz**
Comptroller

Gentlemen:

This refers to your request on behalf of Bac-Man Geothermal, Inc., Green Core Geothermal, Inc., Energy Development Corporation, and EDC Burgos Wind Power Corporation (collectively the "Companies"), for clarification that the Companies, being duly registered Renewable Energy (RE) Developers, are entitled to zero percent (0%) value-added tax (VAT) on their purchase of local supply of goods, properties, and services needed during the development, construction, and installation of their plant facilities, and the whole process of exploration and development of RE sources up to its conversion into power, i.e., the entire development/commercial stage, which includes commercial operations, pursuant to Republic Act (RA) No. 9513, otherwise known as the "Renewable Energy Act of 2008".

In *BIR Ruling Nos. OT-0320-2020, OT-0290-2020, VAT-0218-2020, and 0805-2019*, this Office ruled that since the Companies are DOE-certified RE Developers, their suppliers/sellers of goods and services should not pass on to them the 12% VAT on the purchase of such goods and services that are needed for the development, construction, and installation of their power plant facilities and the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and contractors.

It is represented, however, that certain local suppliers charge 12% VAT to the Companies on the basis that the BIR Rulings do not explicitly state that the goods and services supplied to the Companies during the commercial operations of their renewable energy (RE) projects are VAT zero-rated. Hence, this request.

In reply thereto, please be informed that Section 15(g) 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:

xxx xxx xxx

(g) Zero Percent Value-Added Tax Rate. – … …

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.

This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to, the services performed by subcontractors and/or contractors." (Underlining supplied)

In relation thereto, Section of 4 (E) of Revenue Regulations (RR) No. 7-2022[1] states that:

"SECTION 4. FISCAL INCENTIVES FOR RENEWABLE ENERGY PROJECTS AND ACTIVITIES *- The following provisions shall govern the tax incentives and treatments on the DOE-certified existing and new RE developers of RE facilities in consultation with BOI, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications:*

xxx xxx xxx

E. Zero Percent Value-Added Tax Rate – ……

On the other hand, the purchase by an RE Developer of local goods, properties, and services needed for the development, construction, and installation of the plant facilities of RE Developers, and the whole process of exploration and development of RE sources up to its conversion into power, including, but not limited to, the services performed by subcontractors and/or contractors shall also subject to zero percent (0%) VAT;

Accordingly, local suppliers/sellers of goods, properties, and services of duly-registered RE developers should not pass on the 12% VAT on the latter's purchases of goods, properties and services that will be used for the development, construction and installation of their power plant facilities. This includes the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors. (Underlining supplied)

xxx xxx xxx"

It is clear from the afore-quoted provisions that the intention of RA No. 9513 is to accord VAT zero-rated status to the local purchase of goods, properties, and services used in all stages of RE development and operations -- from the development, construction, and installation of the power plant facilities including the whole process of exploring and developing renewable energy sources up to its conversion into power – including, but not limited to, the services performed by subcontractors and/or contractors.

RA No. 9513 divides RE Contracts into 2 stages -- pre-development stage and the development/commercial stage -- and the VAT zero-rating incentive under Section 15(g) applies to the entirety of the development/commercial stage, which may include commercial operations. The law expressly provides that the incentive shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power. It must

[1] Tax Incentives Under the Renewable Energy Act of 2008 and the Policies and Guidelines for the Availment Thereof

be noted that the process of converting renewable sources into power is a continuing process and may continue even during the commercial operations as long as there is a renewable source being converted into power. Necessarily, local purchases incurred during this stage remains to be entitled to VAT zero-rating. This view is in line with the objective of RA No. 9513 to increase the utilization of renewable energy by institutionalizing the development of national and local capabilities in the use of renewable energy systems, and promoting its efficient and cost-effective commercial application by providing fiscal and non-fiscal incentives.[2]

In view of the foregoing, we confirm that the VAT zero-rating granted to the Companies under Section 15(g) of RA No. 9513 applies to the local purchases of goods, properties, and services needed during the development, construction, and installation of plant facilities, and during the whole process of exploration and development of RE sources up to its conversion into power i.e., the entire development/commercial stage, which may include commercial operations.

Moreover, the same Section 15(g) of RA No. 9513 provides:

"Section 15. Incentives for Renewable Energy Projects and Activities. - ... ...

xxx xxx xxx

(g) Zero Percent Value-Added Tax Rate. — The sale of fuel or power generated from renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy and other emerging energy sources using technologies such as fuel cells and hydrogen fuels, shall be subject to zero percent (0%) value-added tax (VAT), pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337.

xxx xxx xxx"

Relative thereto, Section 108 (B) (7) of the National Internal Revenue Code (Tax Code) of 1997, as amended, provides:

"SEC. 108. Value-Added Tax on Sale of Services and Use or Lease of Properties. —

xxx xxx xxx

(B) Transactions Subject to Zero Percent (0%) Rate — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) 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, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels.

xxx xxx xxx"

Based on the above provisions, the sale of power or fuel generated through renewable sources of energy is subject to zero percent VAT. Thus, any input VAT paid or attributable to

[2] Section 2 (b) of RA No. 9513

such zero-rated sales, to the extent that such input tax has not been applied against output tax, may be claimed for refund under Section 112 of the Tax Code of 1997, as amended, to wit:

> *"SEC. 112. Refunds or Tax Credits of Input Tax.* –
>
> *(A) Zero-rated or Effectively Zero-rated Sales. -- Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax:… …"*

Finally, as mentioned in *BIR Ruling Nos. OT-0320-2020, OT-0290-2020, VAT-0218-2020, and 0805-2019*, and as will be clarified herein, the grant of VAT zero-rating shall be subject to post-audit verification by the BIR whether the purchased goods, properties, and services were indeed utilized in the development, construction, and installation of power plant facilities and the whole process of exploration and development of RE sources up to its conversion into power, i.e., the entire development/commercial stage which may include commercial operations.

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,

LARRY M. BARCELO
Assistant Commissioner
Legal Service
RDAO No. 2-2020
00008644

K-1