REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sections 105, 108 (B) (2) of the NIRC of 1997, as amended	
BIR Ruling No. 119-2014	
BIR Ruling No. 277-11	
VAT-0323-2020	
JUN 15 2020	

S.T. OCEAN PHILIPPINES, INC.
7th Floor G.E. Antonino Building,
J. Bocobo cor. T.M. Kalaw Streets,
Ermita, Manila

Attention: **JOANALIE E. BANGALAN**
Accounting and General Affairs Manager

Madame:

This refers to your letter dated March 31, 2015 requesting on behalf of S.T. Ocean Philippines, Inc. ("S.T. Ocean" for brevity), for the issuance of a ruling that the payments received by S.T. Ocean for services rendered to its non-resident client are subject to zero percent (0%) value-added tax (VAT) pursuant to Section 108 (B) (2) of the National Internal Revenue Code of 1997, as amended.

It is represented that S.T. Ocean, with Tax Identification Number (TIN) [redacted] is a stock corporation duly organized under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC), bearing SEC Registration No. [redacted], dated May 31, 2011; that it is a VAT-registered entity; that the primary purpose for which it was established, as provided in its Amended Articles of Incorporation, is "*to organize, establish, engage, operate and manage a placement and recruitment office, to supply manpower and vessel management services to any local and foreign vessel, to recruit seafarers/crew for placement to local and foreign vessels, to conduct screening, testing, selecting and render employment assistance to local and foreign firm, and to act as agents of individuals or firms in the supply of seafarers*"; that its primary activities arise from manning and crewing agent and thereby recruiting Filipino crew for employment onboard the vessels owned and operated by Santoku Senpaku Co., Ltd.[1]

In support of its request, you have submitted the following pertinent documents, to wit:

1. Certified true copy of S.T. Ocean's SEC Certificate of Incorporation;
2. Certified true copy of S.T. Ocean's Articles of Incorporation;
3. BIR Certificate of Registration of S.T. Ocean;
4. Consularized Manning Agency Agreement dated February 24, 2016, between S.T. Ocean and Santoku Senpaku Co., Ltd.;
5. SEC Certification of Non-Registration of Santoku Senpaku Co., Ltd.
6. Consularized Certificate of Residence of the Santoku Senpaku Co., Ltd., as authenticated by the Philippine Embassy;

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[1] As stated in the Crewing Contract Agreement dated 24 February 2016

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7. Bank Certification on Inward Remittance; and

8. Certification of Regular Remittance from depository bank.

In reply thereto, please be informed that Section 4.108-5 (b) (2) of Revenue Regulations No. 16-2005, as amended, states that —

> "(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
>
> "(2) Services other than processing, manufacturing or repacking rendered to a person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP;
>
> xxx xxx xxx"

In the case of CIR vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc. G.R. No. 153205, January 22, 2007, the Supreme Court emphasized that certain requisites must be complied with in order that the services may qualify for VAT zero-rating under Section 102 (b) (2) [now Section 108 (B) (2)], *to wit*:

1. The services must be performed in the Philippines;

2. The services must be rendered to person engaged in business conducted outside the Philippines or to a non-resident person not engaged in business who is outside the Philippines when the service are performed; and

3. The fees to be paid are in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP.

Applying the cited above provisions of law and the jurisprudential authorities to the case under consideration, this Office holds that services rendered by S.T. Ocean to Santoku Senpaku Co., LTD[2]., paid for in foreign currency, will qualify for VAT zero rating pursuant to Section 108 (B) (2) of the National Internal Revenue Code of 1997, as amended, as implemented by Section 4.108-5 (b) (2) of Revenue Regulations No. 16-2005, as amended, provided that, the same is remitted inwardly and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas. Provided further, that it can be shown that the services are rendered to, and paid for by said foreign principals.

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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[2] As stated in the Manning Agency Agreement signed in February 12, 2016.