[illegible] OF THE PHILIPPINES
[illegible] OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 109(1)(R); RR 16-05; RMC 75-12
BIR Ruling No. 109- [illegible]

PHOENIX EDUCATIONAL SERVICES, INC.
1[illegible] Quezon Avenue, Paligsahan, Quezon City

Attention: [illegible] Emmanuel B. Bernardo
Corporate Secretary

Gentlemen:

This refers to your letter dated [illegible] 2[illegible] 20[illegible]8 stating that Phoenix Educational Services, Inc. is a corporation duly registered with the Securities and Exchange Commission (SEC) under SEC Registration No. [illegible] dated August 2[illegible] 1987; that it is engaged as the exclusive distributor [illegible] wholesaler and retailer of educational reference books from World Book, Inc. in the Philippines; that it was primarily organized –

"To engage in the general business of trading, purchasing, importing, exporting, [illegible] marketing, distributing, producing, [illegible], supplying, selling and otherwise dealing in and with but not limited to books and other educational goods, wares, products or materials as well as any and all kinds of goods, merchandise, commodities, products, articles, supplies, machineries, [illegible] and equipment as traders, promoters, [illegible], distributors, dealers, wholesalers, retailers, importers, exporters and in general as merchants or traders and to provide such allied services, [illegible], assistance necessary or in furtherance of this purpose"

and that Phoenix Educational Services, Inc. [illegible] registered with the National Book Development Board (NBDB) valid until [illegible] 0, 201[illegible] and such registration classified it as a Commercial Book Importer [illegible] B[illegible] E-book Seller (Retail/Wholesale).

Based on the foregoing, [illegible] request confirmation that Phoenix Educational Services, Inc. is exempt from value-added tax (VAT) and percentage tax pursuant to Section 109(1)(R) of the [illegible] Code of 1997, as amended.

In reply, please be informed that Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended, provides that –

"Sec. 109. Exempt [illegible]

> (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value added tax:
>
> xxx xxx xxx
>
> (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;"

The above provision is being implemented by Section 4.109-1 (B) (r) of Revenue Regulations (RR) No. 16-2005 dated September 1, 2005, as amended, to wit:

> "Section 4.109-1. VAT Exempt Transactions. —
>
> xxx xxx xxx
>
> (B) Subject to the provisions of Section 4.109.2 hereof, the following transactions shall be exempt from VAT.
>
> xxx xxx xxx
>
> (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;"

In Revenue Memorandum Circular (RMC) No. 75-2012 dated November 22, 2012, this Office made a clarification on the VAT exemption granted under Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended, to wit:

1. A newspaper, magazine, review or bulletin must be: (1) printed or published at regular intervals; (2) available for subscription and sale at fixed prices; and (3) are not principally devoted to the publication of paid advertisements.

2. The terms "book", "newspaper", "magazine", "review" and "bulletin" as used in the provision refer to printed materials in hard copies. They do not include those in digital or electronic format or computerized versions, including but not limited to: e-books, e-journals, electronic copies, online library sources, CDs and software.

Based on the foregoing, there are four (4) activities that are exempt from the coverage of VAT, *i.e.*, 1) sale; 2) importation; 3) printing; and 4) publication, of books, newspapers, magazines, reviews and bulletins. Moreover, there are certain requirements that have to be met under the above provisions, to wit: the newspaper, magazine, review or bulletin must be:

1. printed or published at regular intervals;
2. available for subscription and sale at fixed prices;
3. are not principally devoted to the publication of paid advertisements; and
4. printed in hard copies

The concurrence of the aforesaid requirements must be present in order that the sale, importation, printing and publication of newspapers, magazines, reviews and bulletins will be exempt from the imposition of VAT.

In view thereof, the importation and sale by Phoenix Educational Service, Inc. as the exclusive distributor/importer/wholesaler/retailer of the World Book Inc. in the Philippines is exempt from the payment of VAT and from the 3% percentage tax under Section 116 in relation to Section 109 (1)(R) of the National Internal Revenue Code of 1997, as amended.

However, if Phoenix Educational Service, Inc. is engaged in other non-exempt activities such as the printing of brochures, bookbinding, engraving, stereotyping, electrotyping, lithographing of various reference books, trade books, journals and other literary works, said transactions are subject to VAT, and the 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. Also, sale of books, newspapers, magazines, reviews and bulletin in digital or electronic format or computerized versions, including but not limited to e-books, e-journals, electronic copies, online library services, CDs and software shall be subject to VAT.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. Being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to Phoenix Educational Service, Inc. does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109 (R) of the National Internal Revenue Code of 1997, as amended, to avoid the passing on or shifting of the VAT. Hence, its purchase of goods, properties, or services from its suppliers shall nevertheless be subject to the 12% VAT pursuant to Section 107 of the same Code. *(BIR Ruling No. [illegible]-18 dated January 31, 2018)*

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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gp (phoenix)