REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 109(1)(A); RR 16-05
VAT Ruling No. 009-07 BIR Ruling No. 194-12
0557-2019
OCT 03 2019

BOUNTY AGRO VENTURES, INC.
Unit 1008, The Taipan Place Cond.
F. Ortigas Jr. Ave., Ortigas Center
Pasig City

Attention: **Mr. Jose R. Chanyungco**
Chief Financial Officer

Gentlemen:

This refers to your letter dated September 2, 2019 requesting for a ruling that the sale of roasted chicken of Bounty Agro Ventures, Inc. qualifies as a value-added tax (VAT) exempt transaction under Section 109 of the National Internal Revenue Code of 1997, as amended by Republic Act (RA) Nos. 8761, 9010, 9238, 9337, 9361 and further amended by RA No. 10963.

Background:

It is represented that Bounty Agro Ventures, Inc. (formerly: Bounty Agri-Ventures, Inc.) doing business under the name and style of Chooks-To-Go; Uling Roasters; Reyal Litson Manok, among others, is a domestic corporation organized and existing under and by virtue of the laws of the Republic of the Philippines.

Bounty Agro Ventures, Inc. is organized primarily to engage in the business of manufacturing, marketing or distributing goods, such as, poultry and meat products, other products with poultry or meat base or poultry meat derivatives or analogues, flour, feeds, feed meals, and their by-products and other similar products of every class and description; to own, acquire, pledge, buy, sell, convey, assign and transfer poultry or meat products, or poultry of meat based products and other poultry or meat derivatives or analogues, flour, feeds, feed description, goods and merchandise of every kind or description which may be incidental in carrying out the business of the corporation.

Sale of goods are recognized when Bounty Agro Ventures, Inc. sells the roasted chicken to the customer on a take-out basis, as control passes to the customer on the day the transaction takes place.

Herein is the process flow:

1. When the dressed chicken meets the required specifications, weighed and sorted according to size, marinated, packed, sealed and labeled, Bounty Agro Ventures, Inc. delivers the dressed chicken to various outlets;

2. Prior to roasting, store outlets do not add any other preservatives, additives or coloring; and

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3. Store outlets sold roasted chickens in either whole or chopped to customers.

In reply, please be informed that Section 109(1)(A) of the Tax Code of 1997, as amended, in pertinent part provides:

> "SEC. 109. Exempt Transactions. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:
>
> (A) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic material therefor:
>
> Products classified under this paragraph shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, **roasting,** smoking or stripping. . . . ." (Emphasis supplied).

Likewise, the provisions of Revenue Regulations (RR) No. 16-2005 implementing the aforesaid provision of law provided, in clear an unmistakable language, under Section 4.109-1(B)(1)(a) thereof that:

> "SECTION 4.109-1. VAT-Exempt Transactions. —
>
> (B) Exempt transactions. —
>
> (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:
>
> (a) Sale or importation of agricultural and marine food products in their original state, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.
>
> Livestock shall include cows, bulls and calves, pigs, sheep, goats and rabbits. Poultry shall include fowls, ducks, geese and turkey. Livestock or poultry does not include fighting cocks, race horses, zoo animals and other animals generally considered as pets.
>
> Marine food products shall include fish and crustaceans, such as, but not limited to, eels, trout, lobster, shrimps, prawns, oysters, mussels and clams.
>
> Meat, fruit, fish, vegetables and other agricultural and marine food products classified under this paragraph shall be considered in their **original state** even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, broiling, **roasting**, smoking or stripping, including those using advanced technological means of packaging, such as shrink wrapping in plastics, vacuum packing, tetra-pack, and other similar packaging methods." (Emphasis and underscoring ours)

Such being the case, the sale of roasted chicken is therefore exempt from VAT as provided for under Section 109 (1)(A) of the Tax Code of 1997, as amended, and as implemented under Section 4.109-1(B)(1)(a) of RR No. 16-2005.

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The inclusion of the other processes of preparation and preservation for the market, *i.e.*, broiling and roasting, was introduced by R.A. No. 8241 and the foregoing conclusion can be reached not only by considering the clear provisions of the law and its implementing regulations, but also the records of the Bicameral Conference Committee where the following deliberations were made, viz.:

> "MR. DAMASING: More or Less, Your Honor, can you give us just few example that would show that the House is more receptive to the cry of the poor people rather than the Senate.
>
> "MR. JAVIER (E). Well, for example, you Honor, one is we were able to get a presumptive tax credit for certain items — food items which are being purchased mostly by our workers. Like, sardines, canned fish, milk, sugar and then cooking oil. Then another, would be — we redefined the definition of agricultural products. For example, it now includes roasting and broiling. So, if our worker who goes home at night because of traffic stops at ANDOK'S LECHON, and buys roasted chicken on a take-out basis NO VAT will be imposed on his purchase of that roasted chicken." (Underscoring ours)

From the foregoing discussion of Congress, it is clear that the sale of chicken, which has undergone the simple process of roasting, on a take-out basis, is covered by the VAT exemption under Section 109(1)(A) of the 1997 Tax Code, as amended. It is noteworthy that in case of vagueness or doubt in the letter of the law, the spirit or intention of the statute prevails over the letter thereof.[1]

It is to be emphasized however, that the exemption applies only if the roasted chicken, which has undergone the simple process of roasting, is purchased on a take-out basis. Accordingly, should Bounty Agro Ventures, Inc., doing business under the name and style of Chooks-To-Go; Uling Roasters; Reyal Litson Manok maintain a facility by which the chicken, which has undergone the simple process of roasting, will be offered as a menu to customers who would dine-in, then it will be subject to the VAT on sale of service which is similarly imposed on restaurants and other eateries (*VAT Ruling No. 009-07 dated June 21, 2007*).

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, this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] Tañada vs. Cuenco, L-10520, February 23, 1957.