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

Section 148(e) of the Tax Code of 1997, as amended;
BIR Ruling No. [DA-181-03]
OT-275-2022

MAY 20 2022

PHILIPPINE PROSPERITY CHEMICALS, INC.
Suite 914 Herrera Tower
No. 98 Herrera corner Valero Street
Salcedo Village, Makati City

Attention: **MR. DIOSDADO P. COBIN**
Chief Operating Officer

Gentlemen:

This refers to your letter dated March 16, 2021 requesting on behalf of the Philippine Prosperity Chemicals, Inc (the "PPCI") for a ruling on whether or not the following imported products are subject to excise tax under Section 148(e) of the Tax Code of 1997, as amended, to wit:

1. SBP 80/100 also known as Exxsol DSP 80/10, Solvent 1630, SBP;
2. Pegasol 3040 also known as Low Aromatic White Spirit, LAWS, White Spirit;
3. Exxsol Hexane also known as n-Hexane, Haxane;
4. Isopar L;
5. Exxsol D40 also known as D40, YK-D40; and
6. Exxsol D80 also known as D80, YK-D80.

Hereinafter referred collectively as "Hydrocarbon Fluids".

It is represented that the BIR has previously ruled through BIR Ruling No. [DA-181-03] on the products stated in Nos. 1 and 2 above, to wit:

> *IN VIEW OF THE FOREGOING, this Office holds that since* ***SBP 80/100*** *and* ***Pegasol 3040*** *are not included in the list of petroleum products under Section 148 of the Tax Code of 1997, its importation is not subject to the P4.80/liter excise tax but only to the 10% VAT under Section 107 of the same Code.* (Emphasis supplied)

Furthermore, in a letter dated May 28, 2014, BIR - Large Taxpayers Service stated that **ISOPAR L** is a widely used industrial liquid solvent used in paints and coating, consumer products, printing inks and agricultural chemical applications. It is not sold directly to the public for general consumer uses but it may be an ingredient in consumer and commercial applications such as paints, cleaning agents, and as functional fluids in other consumer product. It has been clarified in the said letter that ISOPAR L is not among the articles covered by excise tax under Title VI of the Tax Code of 1997, as amended.

Likewise, in a letter dated September 30, 2014, the BIR- Large Taxpayers Service stated that **EXXSOL D40 FLUID** and **EXXSOL D80 FLUID**, which are classified as petroleum solvents, are not among the articles covered by excise tax under Title VI of the Tax Code of 1997, as amended.

Lastly, **EXXSOL HEXANE** is a clear odorless liquid with a petroleum-like odor. It is characterized as complex mixture of aliphatic hydrocarbons. This liquid solvent is used in the industrial, professional, and consumer products such as adhesives, coatings, tires, and rubber solutions. It may also be used in food contract applications such as a solvent for oil seed extraction.

In reply thereto, please be informed that Section 148(e) of the Tax Code of 1997, as amended provides:

> "Sec. 148. *Manufactured Oils and Other Fuels.* — There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:
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> - x x x -
>
> (e) Naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation, per liter of volume capacity, Ten pesos (P10.00): Provided, however, that naphtha and pyrolysis gasoline, when used as a raw material in the reproduction of petrochemical products or in refining of petroleum products, or as replacement fuel for natural-gas-fired-combined cycle power plant in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Finance, per liter of volume capacity, zero (P0.00): Provided, further, That the production of petroleum products, whether or not they are classified as products of distillation and for use solely for the production of gasoline shall be exempt from excise tax: Provided, finally, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section:"

While the above provision does not distinguish the different grades or types of Naphtha for the imposition of the excise tax, it does make the distinction if the subject product will be used as a raw material for purposes other than motor fuel, such as petrochemical products.

Section 148 of the Tax Code of 1997, as amended, imposes taxes on end products primarily derived from crude oil distillation used or intended to be used as motor fuel, the phrase "other similar products of distillation" must be interpreted in the context of the particular subsection where it is found – a product akin to naphtha and regular gasoline as end products primarily derived from distillation of petroleum or crude oil intended to be used as motor fuel.

The principle of *ejusdem generis* is applicable in the issue, which is defined in *Benguet State University vs. Commission on Audit, G.R. No. 169637, June 8, 2007* as:

> "xxx where a statute describes things of a particular class or kind accompanied by words of a generic character, the generic word will usually be limited to things of a similar nature with those particularly enumerated xxx"

In determining the meaning of "other similar products of distillation" reference must be made to the preceding enumeration of "Naphtha" and "regular gasoline" as their common characteristics. Naphtha and regular gasoline are characterized in the subject provision in the context of petroleum products or motor fuel.

Accordingly, the phrase "other similar products of distillation" must be applied restrictively to the limited characteristics of Naphtha and regular gasoline as used as motor fuels. Consequently, the said phrase does not include an article or product that will be used for consumer products other than motor fuel.

In this case, the enumerated Hydrocarbon Fluids except EXXSOL HEXANE are already determined by the BIR, through the above cited various documents, to be only used as solvents and raw materials for general purpose adhesive construction, automotive, shoes and for architectural coatings like household paints (solvent based). Accordingly, the same does not fall under the same category as the Naphtha and regular gasoline since the former, by its nature and description, whether in itself or as an ingredient, is not used as petroleum products or motor fuels.

In the case of EXXSOL HEXANE, PPCI must also submit a document issued by the Large Taxpayers Service that it is not one of the products subject to excise tax under the Tax Code of 1997, as amended.

In applying the above cited provision of the Tax Code of 1997, as amended, the importation of the enumerated Hydrocarbon Fluids except EXSSOL HEXANE shall not be subject to excise tax under Section 148(e) of the Tax Code of 1997, as amended. However, they are still subject to twelve percent (12%) Value-Added Tax ("VAT") on importation of goods.

It bears stressing that monitoring of the actual use/application of the subject articles is recommended. For this purpose, PPCI is hereby mandated to submit to the Large Taxpayers Field Operations Division a list of the buyers of the said articles, as well as other documents as may be required by said office to facilitate the monitoring of the actual use and application of the aforesaid materials.

This ruling is being issued on the basis of the foregoing facts as presented. However, if upon investigation, it will be ascertained 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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