REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 08.109(1)(T), NIRC, RMC 29-05, RMC 31-08, RR 15-15	000-00	, 484-2017 10-19-2017

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36/ 927-09-63

ASIAN MARINE TRANSPORT CORPORATION
20th Floor, Fort Legend Towers
3rd Avenue corner 31st Street
Fort Bonifacio Global City, Taguig City

Attention: **Mr. Federico De Guzman**
AVP-Corporate Planning

Gentlemen:

This refers to your letter dated May 12, 2017 requesting, in effect, for a ruling that:

1) the sale of goods, supplies, equipment and fuel to Asian Marine Transport Corporation ("AMTC")'s international ship, M/V Super Shuttle RoRo 12 ("M/V SSR 12") is subject to zero percent (0%) value-added tax (VAT);
2) the importation of fuel, goods, supplies and equipment by AMTC for use in the operations of M/V SSR 12 is exempt from VAT; and
3) the gross receipts of AMTC arising from the operations of M/V SSR 12 is subject to zero percent (0%) VAT.

It is represented that AMTC is the RoRo Ship Operator in the ASEAN/BIMP-EAGA Trade Connectivity Project of the Philippines and Indonesia with a capacity of 100 TEUs (Twenty-foot Equivalent Unit).

The connectivity would make Davao-GenSan-Bitung as the transshipment point in the East Asian Growth Area (EAGA) set to benefit Filipino producers, especially in Mindanao and Palawan, grow their businesses and link their markets in Bitung and the rest of Indonesia and vice versa, and cut the time in moving goods from certain parts of the Philippines to Indonesia, China and the rest of Asia and the world.

The ASEAN RoRo (Roll-on/Roll-off) service was launched by Philippine President Rodrigo R. Duterte and Indonesian President Joko Widodo on April 30, 2017 at Kudos Port, Sasa, Davao City.

As such, AMTC has duly processed with government agencies concerned the conversion of one of its domestic ships, the M/V Super Shuttle RoRo 12 (SSR 12), to an international ship to ply the overseas route of Davao City-General Santos City-Bitung, Indonesia.

In support of your request, you attached the following documents:

1) Special Permit No. issued by the Maritime Industry Authority, Regional Office VII, Cebu City granting AMTC temporary permit to operate M/V SSR 12 on April 3, 2017;
2) Certificate of Approval for Conversion of M/V SSR 12 from Domestic to Foreign Trade issued by the Bureau of Customs (BOC), Port of Davao, Collection District XII, Davao dated April 27, 2017; and
3) BIR Certificate of Registration No. lated August 11, 1999.

In reply, please be informed that the subject matter of your request has been sufficiently addressed by Revenue Memorandum Circular (RMC) No. 31-08 regarding "Clarification of Issues Concerning Common Carriers by Sea and their Agents Relative to the Transport of Passengers, Goods or Cargoes." Applying the said Circular, we rule on the issues of your concern as follows:

1) The sale of goods, supplies, equipment and fuel to AMTC to be used in its international sea transport operations is subject to VAT at zero percent (0%).

   However, such sale is limited to goods, supplies, equipment, fuel and services pertaining to or attributable to the transport of cargoes from a Philippine port directly to a foreign port without docking or stopping at any other port in the Philippines to unload cargoes loaded in and from another domestic port. Otherwise, any portion of such fuel, equipment, goods or supplies and services used for purposes other than the transport of cargoes from a Philippine port directly to a foreign port, shall be subject to 12% VAT.

   Local sales of petroleum products to AMTC on a per voyage basis (i.e., specific lifting/purchase of the fuel can be directly identified to be used by the loading vessel for outbound international voyage) are considered effectively zero-rated.

   In case of domestic purchases of fuel by AMTC, considering that the same are normally loaded directly to the international carrier, the sales thereof by its suppliers are considered as automatically zero-rated. The domestic seller of the fuel must issue a zero-rated VAT invoice in the name of M/V SSR 12 and supported by Delivery Receipt or

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any document, evidencing the actual loading of the fuel to M/V SSR 12 and duly acknowledged by its captain or duly authorized representative.

On the other hand, when M/V SSR 12 transports cargoes from one domestic port (Davao City) to another domestic port (General Santos) before proceeding to foreign port (Indonesia), the portion of fuel consumed from the first leg of the trip is subject to the 12% VAT. For this purpose, the allocation should be made using the following formula in accordance with RMC 29-05, "Clarifying the Provisions of RA 9337 (VAT Law of 2005) applicable to Petroleum Industry:

$$\text{Total cost of fuel allocable to domestic route} = \frac{\text{Total mileage of first leg of trip}}{\text{Total mileage of entire trip}}$$

The seller of the fuel shall bill the 12% VAT, and AMTC may claim for a tax refund/credit.

2) The tax treatment of fuel imported by or locally sold to AMTC will depend upon the nature of its procurement.

The direct importation by AMTC of fuel to be used by M/V SSR 12 exclusively for its international voyage, is exempt from VAT. However, AMTC has to secure a VAT-exempt Authority to Release Imported Goods (ATRIG) from the appropriate BIR office prior to the release of imported fuel from the custody of the BOC.

If AMTC will import fuel in bulk and the destinations of M/V SSR 12 may be known only upon loading of the fuel to the departing vessel, such bulk importation or direct sales to AMTC shall be subject to the 12% VAT. AMTC can either utilize the VAT paid on the importations or local purchases of fuel as credit against their output tax liabilities, or can claim for tax refund/credit such portion of VAT payments on local as well as imported purchases that are attributable to their zero-rated sales.

If AMTC is maintaining dedicated tanks for the storage of fuel to be used by M/V SSR 12 exclusively for its international voyage, and the imported or locally purchased petroleum products will be delivered directly to these dedicated storage tanks upon release from BOC custody/supplier oil company, the importation of these fuel by the sea transport operator shall be exempt from VAT, while its local purchases will be subject to VAT effective zero rating. In both cases, however, the maintenance of these storage tanks shall be subject to prior approval and regular monitoring by the BIR. Otherwise, the rule in the immediately preceding paragraph will apply.

3) The gross receipts of AMTC arising from the entire journey of M/V SSR 12 from Kudos Port in Sasa, Davao City to Bitung, Indonesia is subject to zero percent (0%) VAT.

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However, if before proceeding to the port in Bitung, Indonesia M/V SSR 12 loads cargoes from Kudos Port and unloads them in General Santos International Port, the gross receipts therefrom (domestic port to another domestic port) shall be subject to 12% VAT.

This ruling is issued on the basis of the facts as represented. However, if upon investigation it shall be disclosed that the actual facts are different, then this ruling shall be without force and effect insofar as the herein parties are concerned.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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