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

Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended
BIR Ruling No. 133-2015; BIR Ruling No. 083-2014; BIR Ruling No. 372-2013; BIR Ruling No. 265-2013
VAT-004-2020
JAN 1 7 2020

SAINT FRANCIS OF ASSISI PUBLICATIONS
\# 952 Josefina, 3rd St., Zone 052,
Brgy. 521, Sampaloc, Manila

Attention: <u>ENGR. RENATO V. MARIANO</u>
Manager / Owner

Gentlemen:

This refers to your letters dated November 03, 2015 and November 13, 2015, requesting for the renewal of the VAT Exemption Certificate dated February 05, 2009, pursuant to Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended.

It is represented that **Saint Francis of Assisi Publications** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated January 01, 1996, is a business name duly registered with the Department of Trade and Industry (DTI) under Certificate No. ; that it is also registered with the National Book Development Board (NBDB) under Certificate of Registration No. ; and that it is engaged in publishing pre-school books, elementary books, and a book for day care services.

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 Transactions. –

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value added tax.

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(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) (1) (r) of Revenue Regulations (RR) No. 16-2005 dated September 1, 2005, to wit:

"Section 4.109-1. VAT Exempt Transactions. -

VAT-004-2020
JAN 1 7 2020

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(B) *Subject to the provisions of Section 4.109.2 hereof, the following transactions shall be exempt from VAT:*

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(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 books, newspapers, magazines, reviews and bulletins will be exempt from the imposition of VAT.

In view thereof, **Saint Francis of Assisi Publications'** business of publication of pre-school books, elementary, and a book for day care services, in hard copies, 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, provided they appear at regular intervals with fixed prices for subscription and sale and which are not devoted principally to the publication of paid advertisements. ***(BIR Ruling No. 083-2014 dated May 04, 2014 and BIR Ruling No. 372-2013 dated October 10, 2013)***

However, if **Saint Francis of Assisi Publications** is engaged in other non-exempt activities such as the printing of materials other than books, newspapers, magazines, reviews and bulletins, 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. ***(BIR Ruling No. 265-2013 dated July 12, 2013)***

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. However, 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

VAT-004-2020
JAN 17 2020

buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to **Saint Francis of Assisi Publications** 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, notwithstanding that **Saint Francis of Assisi Publications** is a publication company, its purchases 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. 133-2015 dated April 30, 2015)***

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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