REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 109 (1) (R) of the Tax Code of 1997, as amended	
BIR Ruling No. 382-13	
#331-2016	

6-29-2016

HYDN Publishing
28 Arayat corner Bulusan St.
Brgy. Malamig, Mandaluyong City

Attention : **Mr. HAYDEN U. AZUL**
Proprietor

Gentlemen:

This refers to your letter dated September 3, 2010 requesting for a VAT exemption certificate pursuant to the provisions of Section 109 (1) (R) of the Tax Code of 1997, as amended.

It is represented that HYDN Publishing located at No. 28 Arayat Cor. Bulusan Malamig, Mandaluyong City is engaged primarily in the publishing of any educational materials, pamphlets, journals, reviewers and any other reading materials like World Map, Philippine Map, Science Laboratory Apparatus, Chemical Elements, English, Math, Filipino, Literary works and undertakings and other business similar or analogous to the foregoing; and that it is duly registered with Taxpayer's Identification No.

In reply, please be informed that under Section 109 (1) (R) of the 1997 Tax Code, as amended, it is provided that the "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," shall be exempt from the imposition of VAT.

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. —

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(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 1997 Tax Code, 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, HYDN Publishing's publication, distribution and sale of textbooks, in hard copies, are exempt from the payment of VAT and from the 3% percentage tax under Section 116, in relation to Section 109 (1) (V) of the 1997 Tax Code. (BIR Ruling No. 382-13 dated October 22, 2013)

However, if HYDN Publishing is engaged in other non-exempt activities such as the publication, distribution and sale 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.

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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 buyer/customer has to pay in order to obtain the goods or services. Thus, the shifting of the VAT to HYDN Publishing does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 109(1)(R) of the Tax Code of 1997, as amended, to avoid the passing on or shifting of the VAT. Hence, notwithstanding that HYDN Publishing 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.

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, then this ruling shall be considered null and void.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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