REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Section 15 (g) of RA No. 9513; RR No. 16-05, as amended
BIR Ruling No. OT-0290-2020
OT- 421 - 2022
OCT 27 2022

CARPIO & DUTERTE LAWYERS
Manila Office (Liaison Office)
31B Pearl of the Orient Tower
1240 Roxas Blvd., cor. Arquiza St.,
Ermita, Manila

Attention: **Atty. Deo S. Zambrano**

Gentlemen:

This refers to your request on behalf of Archemicals Corp. (hereinafter referred to as the "Company" or "Archemicals") for tax exemption ruling confirming that the Company shall be exempt from value-added tax (VAT) on its purchases of materials and all kinds of similar and derivative products to be used in the production and manufacture of biodiesel chemical, pursuant to Section 108 (B) (3) of the National Internal Revenue Code (Tax Code) of 1997, as amended, implemented by Section 4.108-5 of Revenue Regulations (RR) No. 16-2005 in relation to Section 6 (b) of Republic Act (RA) No. 9367 otherwise known as the Biofuels Act of 2006.

Documents submitted disclose that Archemicals is a corporation duly registered with the Board of Investments (BOI) as a Renewable Energy Developer of Biomass Resources (Manufacturer of Biodiesel) in accordance with the provisions of the Omnibus Investments Code of 1987, as amended. It is also registered with the Department of Energy (DOE) as a Renewable Energy Developer (RE Developer) of Biomass Energy Resources by virtue of its registration as a biofuel manufacturer under JAO No. , Series of 2008 of RA No. 9367.

It appears that on December 10, 2019, this Bureau issued BIR Ruling No. 0780-2019 confirming the Company's entitlement to zero-rated VAT on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities. It expressly provides that:

> *"[T]he suppliers/sellers of goods and services of Archemicals Corp., it being a DOE-certified RE Developer, should not pass on 12% VAT to the latter's purchases of goods and services that will be used by it in its development, construction and installation of power plant facilities in Brgy. Natumolan, Tagoloan, Misamis Oriental."*

In the course of its operations, Archemicals has made purchases of raw materials from suppliers who are duly registered with the Philippine Economic Zone Authority (PEZA) or PEZA registered business enterprises (RBE). In a letter dated June 1, 2022, this Bureau provided that since the sale transaction is subject to VAT at zero percent (0%), the VAT paid on the technical importation of raw materials can be refunded pursuant to Section 112 (A) of the Tax Code of 1997, as amended.

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However, while entitled, the refund mechanism provided for in the above cited provision is not readily obtainable and will take a substantial amount of time and resources on the part of the Company. Hence, this request for ruling which the Company would like to present to its current and future suppliers to ensure that VAT will not be passed on to the Company for all succeeding purchase of raw materials.

In reply thereto, please be informed that Section 6 (b) of RA No. 9367 provides:

> *SEC. 6. Incentive Scheme. — To encourage investments in the production, distribution and use of locally-produced biofuels at and above the minimum mandated blends, and without prejudice to enjoying applicable incentives and benefits under existing laws, rules and regulations, the following additional incentives are hereby provided under this Act.*
>
> *xxx xxx xxx*
>
> *b) Value Added Tax*
>
> *The sale of raw material used in the production of biofuels such as, but not limited to, coconut, jatropha, sugarcane, cassava, corn, and sweet sorghum shall be exempt from the value added tax.*

From the foregoing, the purchase of raw materials used in the production of biofuels[1] are exempt from VAT. In effect, VAT should not be imposed on the purchase by Archemicals of raw materials used in the production of biodiesel.

In the same vein, Section 15 (g) of RA No. 9513, provides, to wit:

> *"SEC. 15. Incentives for Renewable Energy Projects and Activities. — RE Developers of renewable energy facilities, including hybrid systems, in proportion to and to the extent of the RE component, for both power and non-power applications, as duly certified by the DOE, in consultation with the BOI, shall be entitled to the following incentives:*
>
> *xxx xxx xxx*
>
> ***All RE Developers shall be entitled to zero-rated value-added tax on its purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities.***
>
> ***This provision shall also apply to the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services formed by subcontractors and/or contractors."*** (Emphasis and underscoring supplied)

Clearly, RA No. 9513 intended to exclude RE Developers from the imposition of 12% VAT on their local purchases of goods, properties and services needed for the development, construction and installation of their power plant facilities and the whole process of exploring and developing

[1] Biofuel shall refer to bioethanol and biodiesel and other fuels made from biomass and primarily used for motive, thermal and power generation, with quality specifications in accordance with the Philippine National Standards. (Section 3 [f] of RA No. 9367)

renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.

Under said law, the local purchases of goods, properties and services by RE Developers are subject to zero-rated VAT provided that those are needed for the development, construction and installation of their power plant facilities, as well as the whole process of exploration and development of the renewable energy to its conversion into power, including the services performed by contractors and subcontractors. This is one of the fiscal incentives given by the government to encourage RE Developers including contractors and subcontractors to develop and utilize the renewable energy resources in the country.

Accordingly, the suppliers/sellers of goods and services of the Company, it being a RE Developer, should not pass on 12% VAT to its purchases of materials and all kinds of similar and derivative products to be used in the production and manufacturing of biodiesel chemical in accordance with the Company's Certificate of Registration No. F 4 duly issued by the DOE as these are exempt from VAT. This includes the whole process of exploring and developing renewable energy sources up to its conversion into power, including but not limited to the services performed by subcontractors and/or contractors.[2]

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,

LARRY M. BARCELO
Assistant Commissioner
Legal Service
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[2] BIR Ruling Nos. 78-2010 dated September 23, 2010 and 358-17 dated August 9, 2017