REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 2(t) of Revenue Bulletin No. 01-2003; RMO 9-2014
BIR Ruling No. 007-15 BIR Ruling No. 1089-18
VAT - 0421 - 2020
JUL 24 2020

ISP INTERNATIONAL CORPORATION – PHILIPPINE BRANCH
Unit 1202 One Global Place, 5th Ave., cor. 25th Street
Bonifacio Global City, Fort Bonifacio, Taguig City

Attention: **<u>Ms. Anna Lynn C. Wong</u>**
Resident Agent

Gentlemen:

This refers to your letter dated February 6, 2018 requesting for legal opinion relative to your other source of income arising from sale of services to non-resident entity and its exemption from 12% value-added tax (VAT).

It is represented that ISP International Corporation – Philippine Branch ("ISP") is acting as sales agent for Ashland Industries Europe GmbH ("AIE") and ISP (Singapore) Pte. Ltd. ("ISP Singapore"), who are both outside the Philippines, to promote the product sales of AIE and ISP Singapore in the Philippines; that ISP received commission income from AIE and ISP Singapore as remuneration for sales promotion activities and is paid for in foreign currency (i.e., USD) and accounted for with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP); that the commission is calculated at 3% of the net sales value of product sold to the customers by AIE and ISP Singapore in Philippines plus SG&A expenses incurred by ISP Philippines during the agent activities; and that the inter-company commission does not form part of the regular sales subject to VAT but rather recognized as part of the net taxable income subject to regular corporate income tax rate of 30%, taking into consideration Sec. 108(B) of the BIR-NIRC.

In reply, please be informed that this Office cannot issue a determinative ruling on the above matter considering that no specific or particular completed transaction was mentioned in your request, which is considered as a "No-Ruling Area" pursuant to Section 2 (t) of Revenue Bulletin 01-03, as amended.

Section 2 (t) of Revenue Bulletin 01-03, as amended, provides:

> "SEC. 2. List of No-Ruling Areas. — The following shall hereby be construed and identified as "No-Ruling Areas":
>
> t) Request for rulings on issue/s or transactions based on hypothetical situations;"

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Likewise, on February 6, 2014, this Office issued Revenue Memorandum Order (RMO) No. 9-2014 to serve as guideline in the processing of request for rulings filed with the Law and Legislative Division. Section 4 thereof provides that the letter request for ruling must be sworn and executed under oath, must contain a list of submitted documents and must contain the following affirmations: 1) A similar inquiry has not been filed and is not pending in another office of the Bureau; 2) There is no pending case in litigation involving the same issue/s and the same taxpayer or related taxpayer; 3) The issue/s subject of the request is not pending investigation, on-going audit, administrative protest, claim for refund or issuance of tax credit certificate, collection proceeding or judicial appeal; and 4) The documents are complete and that no other documents will be submitted in connection with the request.

Moreover, Section 5 of the same RMO provides that the documents accompanying the letter request and material to the transaction for ruling must be certified as true copy of the original document by the public officer or private person having custody of the original document and that the letter request must contain a Special Power of Attorney or authorization in writing in case the request is filed by a representative of the taxpayer.

In view of the fact that no specific completed transaction was mentioned in your request and that the same letter request was not sworn to and executed under oath, does not contain a list of submitted documents, does not contain the affirmations required under Section 4 of RMO No. 9-2014, and the accompanying documents submitted with the letter request was not certified as true copy of the original document by the public officer or private person having custody of the original document, your letter request cannot be given due course pursuant to Revenue Bulletin No. 1-2003 and RMO 9-2014. *(BIR Ruling Nos. 007-15 dated January 20, 2015 and 1089-18 dated July 16, 2018)*

Be that as it may, we would be glad to process your request for a ruling when the said letter-request conforms with the said RMO.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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