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

Section 112 (A), 1997 Code, as amended; Revenue Regulations No. 16-2005
698-2018

APR 13 2018

ATTY. MARK FRANCIS P. ABAYA
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Sir:

This refers to your letter dated February 9, 2018 requesting for confirmation on the interpretation of Section 112 (A) of the 1997 Tax Code, as amended, with respect to VAT refund of input tax on zero-rated sales.

It is your claim that given a plain reading of Section 112 (A) of the 1997 Tax Code, as amended, as well as jurisprudence and decided cases[1], the word "sales" should pertain to zero-rated sales. Accordingly, a taxpayer has 2 years from the close of the taxable quarter in which its zero-rated sale was made to apply for refund or credit of its creditable input tax attributable to such zero-rated sale regardless of when such input tax was incurred. Hence, the request for confirmation.

In reply, please be informed that Section 112(A) of the 1997 Tax Code, as amended, provides for the period within which to apply for the issuance of a tax credit certificate (TCC) or refund of creditable input tax due or paid attributable to VAT zero-rated sales, *viz:*

> "***SEC. 112. Refunds of Tax Credits of Input Tax.***-*(A) Zero-rated or Effectively Zero-rated Sales. -Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against the output tax. xxx" (Underscoring supplied)*

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[1] CIR v. Mirant Pagbilao Corporation, G.R. No. 172129, September 12, 2008; CIR v. Mindanao II Geothermal Partnership, G.R. No. 191498, January 15, 2014; Atlas Consolidated Mining and Development Corporation, G.R. No. 141104 and 148763, June 8, 2007; CBK Power Co. Ltd. v. CIR, G.R. No. 198729-30, January 15, 2014; AT&T Communications Services v. CIR, G.R. No. 185969, November 19, 2014; CIR v. Aichi Forging Company of Asia, Inc., G.R. No. 183241, October 22,2014; CIR v. KEP (Philippines) Realty Corp., C.T.A. EB Case No. 1504 (C.T.A. Case No. 8983), August 18, 2017; Hedcor Sibulan, Inc. v. CIR, C.T.A. Case No. 8166, December 21, 2016

Relative to the above provision, Revenue Regulations (RR) No. 16-2005, as amended, provides:

> *"SECTION 4.112-1. Claims for Refund/Tax Credit Certificate of Input Tax. —*
>
> *(a) Zero-rated and Effectively Zero-rated Sales of Goods, Properties or Services.*
>
> *A VAT-registered person whose sales of goods, properties or services are zero-rated or effectively zero-rated may apply for the issuance of a tax credit certificate/refund of input tax attributable to such sales. The input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax. The application should be filed within two (2) years after the close of the taxable quarter when such sales were made." (Underscoring supplied)*

Based on the above-cited provisions, it is clear that the two (2) year prescriptive period within which to file a claim for refund or issuance of TCC of input tax attributable to VAT zero-rated sales is reckoned from the close of the taxable quarter when such sales were made. (*BIR Ruling No. 123-2013* dated March 25, 2013).

The Supreme Court, in the case of *CIR v. Mirant Pagbilao Corporation, G.R. No. 172129, dated September 12, 2008*, had occasion to clarify the above provision, to wit:

> *"xxx. Sec. 112(A) of the NIRC pertinently reads:*
>
> > *(A) Zero-rated or Effectively Zero-rated Sales. Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: x x x. (Emphasis ours.)*
>
> *The above proviso clearly provides in no uncertain terms that unutilized input VAT payments not otherwise used for any internal revenue tax due the taxpayer must be claimed within two years reckoned from the close of the taxable quarter when the relevant sales were made pertaining to the input VAT regardless of whether said tax was paid or not. As the CA aptly puts it, albeit it erroneously applied the aforequoted Sec. 112(A), [P]rescriptive period commences from the close of the taxable quarter when the sales were made and not from the time the input VAT was paid nor from the time the official receipt was issued. Thus, when a zero-rated VAT taxpayer pays its input VAT a year after the pertinent transaction, said taxpayer only has a year to file a claim for refund*

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> *or tax credit of the unutilized creditable input VAT.* ***<u>The reckoning frame would always be the end of the quarter when the pertinent sales or transaction was made, regardless when the input VAT was paid</u>***. *xxx*" (Underscoring supplied)

The aforesaid Decision of the Supreme Court has reiterated the rule that the two (2) year prescriptive period within which to file a claim for refund or issuance of TCC of input tax attributable to VAT zero-rated sales is reckoned from the close of the taxable quarter when such sales were made. Considering that the reckoning period for the filing of the claim for refund of excess/unutilized input VAT attributable to zero-rated sales is from the end of the quarter when the pertinent sale or transaction was made, regardless when the input VAT was paid, input VAT to be refunded need not be incurred in the same period or year when the zero-rated sales transpired.

Thus, the input VAT accumulated, incurred or paid prior to the year when the zero-rated sale was made can be the subject of a claim for refund/application for TCC provided that the input VAT is unutilized and directly attributable to zero rated sales.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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