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 Nos. 133-2015 & 102-2014
VAT 0374-2020

JUL 03 2020

ASIA/PACIFIC CIRCULATION EXPONENTS, INC.
No. 23, General Araneta St., Brgy. San Antonio
Pasig City

Attention: **Eldridge Marvin B. Aceron**
Counsel

Gentlemen:

This refers to your letter dated May 21, 2018 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 **Asia/Pacific Circulation Exponents, Inc.** with Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated January 1, 1997, is a corporation duly organized and existing under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. ; that it is registered with the National Book Development Board (NBDB) as Commercial Book Importer, Book and/or E-Book Seller (Retail/Wholesale) per NBDB Registration No. [1]; and that the primary purpose for which the corporation was incorporated is to engage in the business of general merchandising of consumer goods, such as but not limited to magazines, books, periodicals, newspapers and other printed materials; to act as distributor, or agency for distribution of publications and other printed materials; to print, import, sell or otherwise dispose of either by wholesale or retail all kinds of printed materials; and to establish retail stores in various locations that may become necessary to dispose, distribute or sell printed materials.

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.

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;"

[1] Valid until April 30, 2019

The above provision is being implemented by Section 4.109-1 (B)(r) of Revenue Regulations (RR) No. 16-2005 dated September 1, 2005, to wit:

"Section 4.109-1. VAT Exempt Transactions. -

xxx xxx xxx

(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 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, the importation and sale of books, any newspaper, magazines, reviews or bulletins of **Asia/Pacific Circulation Exponents, Inc.** books on wholesale/retail basis are exempt from the payment of VAT and from the 3% percentage tax under Section 116, in

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relation to Section 109 (1) (R) of the National Internal Revenue Code of 1997, as amended, provided the aforesaid requirements are present.

However, if **Asia/Pacific Circulation Exponents, Inc.** is engaged in other non-exempt activities such as the printing of brochures, bookbinding, engraving, stereotyping, electrotyping, lithographing of various reference books, trade books, journals and other literary works, 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. Also, the sale of books, newspaper, magazines, reviews and bulletin in digital or electronic format or computerized versions, including but not limited to e-books, e-journals, electronic copies, online library services, CDs and softwares shall be subject to VAT.

Moreover, VAT is an indirect tax payable by the seller and not the purchaser of goods. 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 **Asia/Pacific Circulation Exponents, Inc.** 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, its purchase 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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