REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 10349
BIR Ruling No. 396-2014 BIR Ruling No. 397-2014 BIR Ruling No. 398-2014
#316-2018

3-5-2018

DEPARTMENT OF NATIONAL DEFENSE
DND Building, Camp Gen. Emilio Aguinaldo
Quezon City

Attention: **Honorio S. Azcueta**
Officer-In-Charge

Gentlemen:

This refers to your letter dated October 22, 2014, requesting for the issuance of certificate of exemption from value-added tax and documentary stamp tax on the importation of 2,200 units of 40mm Grenade Launcher for the Philippine Army, as specified in the Letter of Acceptance PI-B-VBB, an agreement that was entered into by and between the DND/AFP and United States of America/JUSMAG. The project has an estimated cost of

It is represented that the acquisition of the above equipment is exempt from value-added tax and customs duties pursuant to Section 10 of Republic Act (RA) No. 10349, amending RA No. 7898, as well as from DST pursuant to the decision of the Supreme Court in the case of *Fort Bonifacio Development Corporation vs Commissioner of Internal Revenue,* GR Nos. 164155 and 175543, February 25, 2013.

In reply, please be informed that Section 10 of RA 10349, amending RA No. 7898, provides:

> *"SEC. 10. Insert three (3) sections after Section 16 of the same Act which shall now become the new Sections 17, 18 and 19 respectively, which shall read as:*
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> *'SEC. 17. Exemption from Value-Added Tax and Customs Duties.- The sale of weapons, equipment and ammunitions to the AFP, which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the valued-added tax; Provided, That the importation of the same by the AFP shall likewise be exempt from the value-added tax and customs duties.'*
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> *xxx xxx xxx"*

Under Section 10 of RA 10349, the sale of weapons, equipment and ammunitions to the Armed Forces of the Philippines (AFP), which are directly and exclusively used for its projects, undertakings, activities and programs under the Revised AFP Modernization Act, shall be exempt from the valued-added tax. Moreover, the importation of the same by the AFP shall likewise be exempt from the value-added tax. In relation thereto, the Department of National Defense (DND) issued the Department Circular No. 3 (*Issuing the Implementing Guidelines, Rules and Regulations of the Revised Armed Forces of the Philippines Modernization Act*) dated April 11, 2013 which, among others, defined the term "equipment" as referring to "*all non-expendable items needed to outfit or equip any individual and/or organizations and sub-organizations within the AFP.*" (*BIR Ruling Nos. 396-2014, 397-2014* and *398-2014* dated October 17, 2014)

Accordingly, the purchase and subsequent importation by DND/AFP of 2,200 units of 40mm Grenade Launcher which are non-expendable items needed to equip the Philippine Army, is exempt from value-added tax, provided that the aforesaid equipment shall be used directly and exclusively by the AFP for its projects, undertakings, activities and programs under the Revised AFP Modernization Act.

Anent the issue on DST, please take note that the sale of personal property is not subject to DST. Under Section 196 of the 1997 Tax Code, only the conveyances, deeds or instruments transferring any land, tenement or other real property shall be subject to DST. The cited case of *Fort Bonifacio Development Corporation vs Commissioner of Internal Revenue,* supra, is inapplicable since the issue therein was the imposition of DST on the sale of a parcel of land, which is not the issue in this case. However, the notarial acknowledgment on the deed of sale is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the 1997 Tax Code. (*BIR Ruling Nos. 396-2014, 397-2014* and *398-2014* dated October 17, 2014)

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.

CAESAR R. DULAY
Commissioner of Internal Revenue
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