REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 101 (A) (2); 101 (B) (1), Tax Code of 1997, as amended Revenue Regulations No. 25-03
BIR Ruling No. 096-2014; BIR Ruling No. 165-2012.
#328-2016
6-29-2016

Date

DEPARTMENT OF TRADE AND INDUSTRY
7th Floor New Solid Bldg., 357 Sen. Gil
Puyat Ave., Makati City, Philippines

Attention: **MS. ASTERIA C. CABERTE**
Regional Director

Gentlemen:

This refers to your letter dated March 25, 2014 requesting a confirmation of your opinion that the donation made by the Deutsche Gessellschaft für Internationale Zusammenarbeit (GIZ) Manila Office to the Department of Trade and Industry (DTI) last December 2012 is exempt from Donor's Tax.

GIZ, a Germany-based international enterprise owned by the German Federal Government, and the DTI are partners in the technical cooperation program Private Sector Promotion-Small and Medium Enterprise Development for Sustainable Employment Program (PSP-SMEDSEP). During the course of program, GIZ purchased locally a **Toyota Innova Manual Transmission**, more specifically described as follows:

Type of Body:	Wagon	**Engine No.:**	
Year Model:	2006	**Color:**	Gray
Chassis No.:		**Plate No.:**	

Part of the administrative procedures of GIZ provides that all serviceable equipment and materials procured under the technical assistance programs/projects, including the above-mentioned motor vehicle, shall be turned over to the partner at the end of each program. At the end of the PSP-SMEDSEP on December 2012, GIZ turned over, by donation, to the DTI the above-described vehicle.

However, one of the requirements of the Department of Foreign Affairs (DFA) is the payment of taxes and duties due to the motor vehicle upon effecting the donation. The said motor vehicle was purchased by GIZ locally, free of tax as approved by the BIR. As per guidelines of GIZ, the donor, the DTI as the donee shall shoulder the corresponding cost of donor's tax.

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In reply, please be informed that donations made in favor of the Government and any of its agencies which are not conducted for profit, or to any of its political subdivisions, are exempt from the payment of the donor's tax pursuant to the provisions of Section 101(A)(2) and Section 101(B)(1) of the Tax Code of 1997, as amended (Tax Code), which provides:

> "**SEC. 101. *Exemption of Certain Gifts*.** — The following gifts or donations shall be exempt from the tax provided for in this Chapter:
>
> (A) *In the Case of Gifts Made by a Resident.* —
>
> xxx xxx xxx
>
> (2) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government;
>
> xxx xxx xxx
>
> (B) *In the Case of Gifts Made by a Nonresident not a Citizen of the Philippines.* —
>
> (1) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government."

Accordingly, since DTI is a department of the National Government, the donation made by GIZ in its favor is exempt from the payment of donor's tax pursuant to the above quoted provisions. (*BIR Ruling No. 165-2012 dated March 9, 2012*)

This Office has previously issued BIR ITAD Ruling No. 137-06 dated November 7, 2006 to Embassy of the Federal Republic of Germany granting exemption from value-added tax (VAT) on the local purchase of two (2) units Toyota Innova E Diesel 2.5L M/T, for the official use of the Small and Medium Enterprise Development for Sustainable Employment Program under the project of GDC-GTZ[1].

Details of said vehicles locally purchased are as follows:

Make:	*two (2) units Toyota Innova 2.5E Diesel M/T*
Model year:	*2006*
Color:	*Quick Silver*
Engine No.:	
Frame No.:	

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[1] GIZ as the new name of Gesellschaft für Technische Zusammenarbeit (GTZ) effective January 1, 2011 per Note No. 275/10 dated December 1, 2010 of the Embassy of the Federal Republic of Germany and DFA Note 11-0197 dated January 31, 2011 (ITAD BIR Ruling No. 388-12 dated December 6, 2012)

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From the foregoing, it is shown that one of the two vehicles purchased is the vehicle subject of this donation and which was exempted from VAT on its purchase under the aforementioned Ruling.

Noting that the purchase of the vehicle was previously exempted from VAT and *ad valorem* tax (excise tax), DTI, not being exempt from the same, shall pay the VAT and the excise tax due on the transaction pursuant to Section 107(B) of the Tax Code and Section 8 of Revenue Regulations No. 25-03, respectively. (*BIR Ruling No. 096-2014 dated March 14, 2014*)

Moreover, the Deed of Donation is not subject to documentary stamp tax imposed under Section 196 of the Tax Code. However, the acknowledgment on said deed is subject to documentary stamp tax of P15.00 imposed under Section 188 of the same Code. (*BIR Ruling No. 024-10 dated August 4, 2010*)

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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JUN 24 2016

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