REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 8 of Republic Act (RA) No. 8436, as amended by Section 12 of RA No. 9369
BIR Ruling Nos. 390-2015
OT- [illegible]
[illegible]

Holy Family Printing Corporation
27, Congressional Avenue Extension
Tandang Sora, Quezon City

Attention: **LEOPOLDO M. GOMEZ**
President

Gentlemen:

This refers to your letter dated January 22, 2021, requesting for confirmation of your opinion that Holy Family Printing Corporation (HFPC) is exempt from business tax pursuant to RA No. 8436, as amended by RA No. 9369.

Documents submitted show that HFPC, with Taxpayer Identification Number (TIN) 000- is a domestic corporation duly registered with the Securities and Exchange Commission under Registration No. that it is primarily engaged in commercial printing services for any person or office, private or public and as principal or agent to carry on the business as printer for newspaper, journals, magazines, books and literary works and undertakings; that on October 04, 2018, HFPC entered into a Joint Venture Agreement (JVA) with the National Printing Office (NPO), primarily for the purpose of printing tasks and works that may be described in the Single Task Order Contracts; that NPO shall be primarily and exclusively responsible for marketing and client relationships; that under the JVA, NPO and HFPC shall divide, share-and-share-alike, the net revenue derived from the works described in the Single Task Order Contract; and that on December 05, 2018, NPO entered into a Memorandum of Agreement with the Commission on Elections (COMELEC) for the purpose of providing printing services, including printers, equipment, facilities, space and manpower, for printing of Official Ballots and Other Accountable Forms for the National and Local Election with strict compliance with the design specifications provided by the COMELEC. Hence,this request.

In reply, please be informed that Section 12 of Republic Act (RA) No. 9369, amending Section 8 of RA 8436, provides as follows:

> *"SECTION 12. Procurement of Equipment and Materials. To achieve the purpose of this Act, the Commission is authorized to procure, in accordance with existing laws, by purchase, lease, rent or other forms of acquisition, supplies, equipment, materials, software, facilities and other services, from local*

or foreign sources ***free from taxes and import duties, subject to accounting and auditing rules and regulations.*** *With respect to the May 10, 2010 elections and succeeding electoral exercises, the system procured must have demonstrated capability and been successfully used in a prior electoral exercise here or abroad. Participation in the 2007 pilot exercise shall not be conclusive of the system's fitness. (Emphasis supplied)*

It must be noted that the twelve percent (12%) VAT or the three percent (3%) percentage tax, whichever is applicable, is a tax on the business transaction or activity and is an indirect tax which the seller of goods or services may pass-on or shift to the customer/purchaser who ultimately bears or assumes the burden of the tax.

Section 12 of RA No. 8436, as amended by RA No. 9369, clearly intended to exempt COMELEC from the 12% VAT or the 3% percentage tax on its local purchases of goods and services as well as importation of goods that will be used relative to the conduct of the May 10, 2010 elections and succeeding electoral exercises. Hence, the suppliers/sellers of goods and services to COMELEC cannot shift or pass on any VAT or percentage tax to COMELEC on the latter's purchases of goods and services that will be used in the elections. *(BIR Ruling No. 390-2015)*

While we confirm that COMELEC is exempt from VAT on its purchase of goods and services that will be used in the conduct of automated national and local elections, such exemption may only be invoked by COMELEC and it does not extend to COMELEC's suppliers with respect to the latter's purchases and other contractual arrangements.

Thus, NPO, HFPC or the Joint Venture is not entitled to the said tax exemption but shall be considered as the end-user who will bear or assume the burden of the tax (VAT or Percentage tax). Accordingly, the input tax attributable to VAT-exempt sales to COMELEC shall not be allowed as credit against the output tax on the part of the supplier but should be treated as part of their cost or expense.

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 null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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