



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Secs. 106(A)(2)(c) & 108(B)(3), Tax
Code of 1997
Sec. 5, Revenue Regulations No. 4-2007
VAT Ruling No. 33-2000
BIR Ruling No. ITAD - 49-07

Date: April 13, 2007

ASIAN DEVELOPMENT BANK (ADB)

6 ADB Avenue
Mandaluyong City
1550 Metro Manila

Attention: **Ms. Cecile L.H.F. Gregory**
Director, Institutional Services Division

Gentlemen:

This refers to your letter dated January 18, 2007 requesting for the re-issuance and revalidation of ADB's exemption from the payment of value-added tax (VAT) per certification issued by this Office on November 29, 1989 and VAT Ruling No. 033-2000 dated September 8, 2000, due to difficulties experienced by ADB in instances wherein the Bureau of Customs and other government agencies question the validity of the aforementioned letters.

In reply, please be informed that Section 106(A)(2)(c) of the National Internal Revenue Code (Tax Code) of 1997 provides, viz:

"SEC.106. *Value-added Tax on Sale of Goods or Properties.* -

xxx xxx xxx

(2) [Zero-rated Sales.] --- The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx xxx xxx

(c) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate."

Moreover, Section 108(B)(3) of the Tax Code of 1997 provides, viz:

"SEC. 108. *Value-added Tax on Sale of Services and Use or Lease of Properties.* -

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(B) Transactions Subject to Zero Percent (0%) Rate. - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

xxx

xxx

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(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;”

Relative thereto, Article IX, Section 34(a) of the *Agreement Between the Asian Development Bank and the Government of the Republic of the Philippines Regarding the Headquarters of the Asian Development Bank* (Headquarters' Agreement) signed on December 22, 1966 provides, viz:

“ARTICLE IX
Property of the Bank and Taxation

xxx

xxx

xxx

Section 34

The Bank, its property and its operations and transactions shall be exempt from: -

(a) all taxation and any obligation for the payment, withholding or collection of any tax or duty. The Bank will not claim exemption from taxes or charges which are no more than payments for public utility services;”
(Underscoring supplied)

Based on the foregoing provisions of the Tax Code of 1997, and considering the clear stipulations under the Headquarters' Agreement, this Office is of the opinion and so holds that ADB shall be exempt from VAT in all its transactions. The said grant of exemption is interpreted to mean that the direct sale of goods and services to ADB is effectively zero-rated under the aforementioned provisions of the Tax Code of 1997. Thus, the pronouncement contained in the certification of this Bureau dated November 29, 1989 is still valid and effective. (VAT Ruling No. 033-2000 dated September 8, 2000). This is further confirmed under Section 5¹ of Revenue Regulations No. 4-2007

¹ SEC. 4.106-5. *Zero-Rated Sales of Goods or Properties.* - xxx xxx xxx.
The following sales by VAT-registered persons shall be subject to zero percent (0%) rate:
xxx xxx xxx

(c) *Sales to Persons or Entities Deemed Tax-exempt Under Special Law or International Agreement.* - Sale of goods or property to persons or entities who are tax-exempt under special laws or international agreements to which the Philippines is a signatory, such as, Asian Development Bank (ADB), International Rice Research Institute (IRRI), etc., shall be effectively subject to VAT at zero-rate.” (Underscoring supplied)

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dated February 7, 2007 (*Amending Certain Provisions of Revenue Regulations No. 16-2005, As Amended, Otherwise Known as the Consolidated Value-Added Tax Regulations of 2005*).

It must be understood, however, that the tax privilege accorded to the Bank does not extend to its personnel. Likewise, for proper documentation purposes, it is still required from the suppliers to clearly stamp their VAT Invoice with the notation "zero-rated sale" and with reference to the number and date of this revalidation ruling.

This ruling validates the certification of ADB's VAT exemption dated November 29, 1989.

Very truly yours,


JOSE MARIO C. BUÑAG
Commissioner of Internal Revenue

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