Republic of the Philippines
Department of Finance
BUREAU OF INTERNAL REVENUE
National Office
Quezon City

Bringing in Revenues for Nation-building

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Sections 30 (E) and (H) of the NIRC of 1997, as amended; RMO Nos. 20-2013 and 44-2016
BIR Ruling Nos. 466-14 & 1111-18

SH30- 049 . 2025
APR 04 2025

THE ENGLISH CHERRIES INC.
Pugpog Road, Poblacion
Norzagaray, Bulacan 3013

Attention : **CHARISAKEY E. PAJARILLAGA**
President

Gentlemen:

This refers to your letter dated December 19, 2022, applying on behalf of **THE ENGLISH CHERRIES INC.** for the issuance of a certificate of tax exemption enjoyed by a non-stock, non-profit corporation or association organized and operated exclusively for educational purposes under Section 30(H) of the National Internal Revenue Code (Tax Code) of 1997, as amended.

It is represented that **THE ENGLISH CHERRIES INC.**, with Taxpayer Identification No. , is a non-stock, non-profit association duly organized and existing under the laws of the Republic of the Philippines and that it is registered with the Securities and Exchange Commission under Company Registration No.

In reply, please be informed that paragraph 3, Section 4, Article XIV of the 1987 Constitution states that:

"All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties."

Similarly, Section 30 (H) of the Tax Code of 1997, as amended, provides, viz:

"Sec. 30. Exempt from Tax on Corporations. - The following organizations shall not be taxed under this Title in respect to income received by them as such:

xxx xxx xxx

(H) A non-stock and non-profit educational institution;"

Moreover, there are two requisites in order for a non-stock, non-profit educational institution to be exempt from tax as provided under Revenue Memorandum Order No. 44-2016; to wit:

a) It is a non-stock, non-profit educational institution; and
b) Its revenues are actually, directly and exclusively used for educational purposes

"Non-stock" means "no part of its income is distributable as dividends to its members, trustees, or officers" and that any profit "obtained as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the

SH30- 049 . 2025
APR 04 2025

corporation was organized".[1] Meanwhile, "Non-profit" means that "no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit."[2]

Based on the documents submitted by **THE ENGLISH CHERRIES INC.**, the following was disclosed, to wit:

> *"The Trustees shall not receive any compensation, as such trustees, except for reasonable per diems. Any compensation may be granted to trustees by the vote of the members representing at least a majority of the membership at a regular or special members' meeting. In no case shall the total yearly compensation of trustees, as such trustees, exceed ten (10%) percent of the net income before income tax of the corporation during the preceding year."*

The giving of per diems to the Officers is considered as distribution of equity (including the net income) of **THE ENGLISH CHERRIES INC.** This is a form of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. This act violates the requirement that no part of the net income or assets of the corporation shall inure to the benefit of any individual or specific person. Thus, **THE ENGLISH CHERRIES INC.** cannot qualify as a non-stock, non-profit educational institution exempt from Income Tax under Section 30 (H) of the Tax Code of 1997, as amended.

Please bear in mind that, "being a non-stock and/or non-profit corporation does not, by this reason alone, completely exempt an institution from tax."[3] Thus, "statutes granting tax exemptions are construed **strictissimi juris** against the taxpayer and liberally in favor of the taxing authority. A claim of tax exemption must be clearly shown and based on language in law too plain to be mistaken. Otherwise stated, taxation is the rule, exemption is the exception. The burden of proof rests upon the party claiming the exemption to prove that it is in fact covered by the exemption so claimed."[4] (BIR Ruling No. 466-2014 dated November 19, 2014)

In view of the foregoing, the request of **THE ENGLISH CHERRIES INC.** to be exempted from income tax under Section 30(H) of the Tax Code of 1997, as amended is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **THE ENGLISH CHERRIES INC.** shall be treated as an ordinary corporation subject to twenty-five percent (25%) or twenty percent (20%) income tax rate[5] pursuant to Section 27(A) of the Tax Code of 1997, as amended.

Please be guided accordingly.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

CC: Revenue Region No. 05
Attention: Revenue District Office No. 25B - East Bulacan

K-I-JKE

---

[1] Section 86 of the Revised Corporation Code of the Philippines.
[2] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960, September 26, 2012.
[3] Ibid.
[4] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation G.R. No. 166408, October 6, 2008.
[5] Section 6 of Republic Act No. 11534 (CREATE Law).