June 21, 2021

BIR RULING NO. SH30-215-21

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Section 30 (E) and (H) of the NIRC of 1997, as amended; RMO Nos. 20-2013 and 44-2016; BIR Ruling No. 1111-18

Assatt Christian School, Inc.
San Eugenio, Aringay
La Union, Philippines

Attention: *AAA*

Gentlemen :

This refers to your letter dated September 23, 2019, applying on behalf of **ASSATT CHRISTIAN SCHOOL, 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 (NIRC) of 1997, as amended.

It is represented that **ASSATT CHRISTIAN SCHOOL, INC.** with BIR Taxpayer's Identification No. (TIN) _____ 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 (SEC) under Company Registration No. BN091001818.

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 National Internal Revenue Code (NIRC) of 1997, as

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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; x x x."

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 (RMO) 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 corporation was organized." [1] "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]

In the submitted documents of **ASSATT CHRISTIAN SCHOOL, INC.**, it was disclosed that the Board of Trustees and Officers are entitled to allowances. The Treasurer's Affidavit/Certification states that the following amount of income, compensation, salaries are paid by the corporation to its corresponding Trustees, Officers, and other Executive Officers:

NAME	POSITION	Salaries/Income Emoluments as Officers of the Corporation
BBB	_____	_____
CCC	_____	_____
DDD	_____	_____
EEE	_____	_____
FFF	_____	_____
GGG	_____	_____
HHH	_____	None

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III	_____	None
JJJ	_____	None
KKK	_____	None
LLL	_____	None
MMM	_____	None

The giving of salaries or allowances to the members of the Board of Trustees is considered as distribution of equity (including the net income) of **ASSATT CHRISTIAN SCHOOL, 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, **ASSATT CHRISTIAN SCHOOL, INC.** cannot be qualified as a non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue 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 **ASSATT CHRISTIAN SCHOOL, INC.** to be exempted from income tax on its income as a Section 30 (H) institution is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **ASSATT CHRISTIAN SCHOOL, INC.** shall be treated as an ordinary corporation subject to thirty percent (30%) income tax rate pursuant to Section 27 (A) of the National Internal Revenue Code of 1997, as amended.

Please be guided accordingly.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

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Footnotes

1. Section 87, Corporation Code.
2. *CIR vs. St. Luke's Medical Center, Inc.*, G.R. Nos. 195909 and 195960 dated 26 September 2012.
3. *Ibid.*
4. *Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation*, [G.R. No. 166408, 6 October 2008].

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