REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 4 (3), Article XIV, 1987 Philippine Constitution;
Sections 109 (1) (H), 101 (A) (3), 27 (D) (1), 30 (H), 105, Tax Code of 1997, as amended;
BIR Ruling No. 170-2011; BIR Ruling No. 169-2011; BIR Ruling No. 159-2011
#021-2016
1-11-2016

OUR LADY OF MANAOAG COLLEGE, INC.
Milo Street, Poblacion,
Manaoag, Pangasinan

Attention: SR. STEPHANIE B. DAVID, O.P.
School Directress

Gentlemen:

This refers to your letter dated December 23, 2013, as indorsed by the Regional Director of Revenue Region No. 1, Calasiao, Pangasinan, relative to your request for the issuance of a **Certificate of Tax Exemption** on behalf of **OUR LADY OF MANAOAG COLLEGE, INC.** pursuant to Section 4 (3), Article XIV of the 1987 Philippine Constitution or Section 30 (H) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **OUR LADY OF MANAOAG COLLEGE, INC.**, with BIR Certificate of Registration No. dated January 1, 1996 and with Taxpayer's Identification No. (TIN) is a non-stock, non-profit corporation duly organized and existing under the laws of the Republic of the Philippines; that it was formerly known as the **HOLY ROSARY ACADEMY OF MANAOAG** which was registered with the Securities and Exchange Commission (SEC) under SEC Company Registration No. dated August 12, 1949; that it changed its corporate name to **OUR LADY OF MANAOAG COLLEGE, INC.** on July 11, 2000; that among the purposes for which it was incorporated are the following, to wit:

1) To establish an educational institution whose aim shall be to educate the youth who shall flock to its halls in accordance with the Catholic tenets on education and with the educational objectives of the Constitution of the Philippines;

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2) To establish and operate the elementary, the high school, vocational and higher education courses as approved by the Department of Education, Culture and Sports, Technical Education and Skills Development Authority and Commission on Higher Education, respectively; and
3) In general, to perform such acts incidental to the operation of the aforesaid institution of learning.

that it was permitted and granted the following Government Recognitions by the Regional Offices of the Department of Education (DepEd) and Commission on Higher Education (CHED), respectively, at San Fernando City, La Union, to offer and operate the following courses, to wit:

Government Recognition Number	Date Issued	Degree/Program
	February 29, 2012	Pre-Elementary Course
	February 29, 2012	Basic Education Curriculum (BEC) (Grades I-VI)
	November 18, 2002	New Secondary Education Curriculum (Renewal for First Year to Fourth Year)
	April 20, 2005	Bachelor of Elementary Education (I-IV)
	April 20, 2005	Bachelor of Secondary Education (I-IV)
	May 24, 2004	Bachelor of Science in Commerce (I-IV)
	June 24, 2004	Bachelor of Science in Information Technology (I-IV)
	June 24, 2004	Bachelor of Science in Computer Science (I-IV)

and that it was further permitted and granted Certificates of TVET Program Registration by the Technical Education and Skills Development Authority (TESDA) at San Fernando City, La Union to offer and operate the following courses to wit:

Certificate of TVET Program Registration No.	Date Issued	Degree/Program
	March 9, 2001	Two-Year Computer Technician [Computer Technician NC II (WTR)]
	March 9, 2001	Two-Year Computer Programming [Computer Programmer NC II (WTR)]

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In support of its request, **OUR LADY OF MANAOAG COLLEGE, INC.** has completely submitted the following documents:

1) Letter application for tax exemption;
2) Certified true copy of its Certificate of Incorporation with the SEC;
3) SEC original copy of its Amended Articles of Incorporation which specifically includes and clearly states the following provisions verbatim:
    1) *That it is non-stock and non-profit corporation or association;*
    2) *That no part of the income which the association may obtain as an incident to its operation shall be distributed as dividends to its members, trustees or officers subject to the provisions of the Corporation Code on dissolution;*
    3) *That the Trustees do not receive any compensation or remuneration; and*
    4) *That in case of dissolution, assets of the corporation shall be transferred to similar institution or to the government.*
4) SEC certified true copy of the corporation's Amended By-laws;
5) Original copy of the Certification under Oath by an executive Officer of the educational institution as to: (I) all previous amendments or changes in the Articles of Incorporation and By-Laws; (II) manner of activities; and (III) the sources and disposition of income;
6) BIR certified true copy of the educational institution's Certificate of Registration;
7) Original copy of the Certification under Oath by the Treasurer of the educational institution that the Board of Trustees of the School does not receive any compensation or remuneration from the School;
8) Original copy of the Certification issued by the Revenue District Officer of Revenue District Office (RDO) No. 4, Calasiao, Pangasinan, that **OUR LADY OF MANAOAG COLLEGE, INC.** has no pending internal revenue tax liability as of May 12, 2014;
9) BIR certified true copies of the educational institution's Annual Income Tax Returns and Financial Statements for the years 2011-2013;
10) Original copy of the Statement under Oath by the Executive Officer of the Foundation as to its modus operandi which includes;

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1) *A full description of the past, present and proposed activities of* ***OUR LADY OF MANAOAG COLLEGE, INC.;***
2) *A narrative description of anticipated receipts and contemplated expenditures; and*
3) *A detailed description of all revenues which it seeks to be exempted from income tax. All other revenues which are not included in the statement or application shall be subject to income tax.*

11) Original copy of the Certificate of Utilization of Annual Revenues and Assets by the Treasurer or his equivalent of the educational institution in accordance with the guidelines set forth in Section 1.3 of Department of Finance (DOF) Order No. 137-87;
12) Certified true copies of the Government Recognitions issued by the Department of Education (DepEd), Commission on Higher Education (CHED), Region I, City of San Fernando, La Union;
13) Certified true copies of the Certificates of TVET Program Registration issued by the Technical Education and Skills Development Authority (TESDA);
14) Certificates of Operation issued by the Department of Education (DepEd); Commission on Higher Education (CHED) and Technical Education and Skills Development Authority (TESDA); and
15) Verification and Affidavit of Non-Forum Shopping.

In reply, please be informed that **paragraph 3, Section 4, Article XIV of the 1987 Constitution** provides, viz.:

> *"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."*

Likewise, **Section 30 (H) of the 1997 Tax Code, 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

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

A non-stock, non-profit educational institution is exempt from tax on all revenues derived in pursuance of its purpose as an educational institution and used actually, directly and exclusively for educational purposes. The exemption contemplated herein refers to internal revenue taxes imposed by the National Government on all revenues and assets of non-stock, non-profit educational institutions used actually, directly and exclusively for educational purposes. ***(BIR Ruling No. 170-11 dated May, 25, 2011 and BIR Ruling No. 159-11, May 19, 2011)***

Private non-profit educational institutions whose gross income from unrelated trade, business or other activity does not exceed fifty percent (50%) of their total gross income derived from all sources, shall pay a tax of ten percent (10%) on their taxable income, except those covered by Section 27 (D) of the Tax Code of 1997. However, if their gross income from unrelated trade, business or activity exceeds fifty percent (50%) of the total gross income derived from all sources then the entire taxable income shall be subject to the regular income tax rate prescribed under Section 27 (A) of the Tax Code of 1997, as amended. ***(Section 27[B] of the Tax Code of 1997, as amended; Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc. G.R. Nos. 195909 and 195960 dated 26 September 2012)***

Unrelated trade, business or other activity means any trade, business or activity the conduct of which is not substantially related to the exercise or performance by such educational institution of its primary purpose or function. ***(Section 27[B] of the Tax Code of 1997)***

From the foregoing, and since **OUR LADY OF MANAOAG COLLEGE, INC.** is a non-stock and non-profit educational institution as contemplated under the said provisions, it is exempt from the payment of taxes and duties on all its revenues and assets used actually, directly and exclusively for educational purposes. ***(BIR Ruling No. 159-11, May 19, 2011)***

However, **OUR LADY OF MANAOAG COLLEGE, INC.** shall be subject to internal revenue taxes on income from trade, business or other activity, the conduct of which is not related to the exercise or performance by such educational institutions of their educational purposes or functions. ***(Sec. 2, Finance Department Order No. 137-87, as amended by Finance Department Order No. 92-88).***

Likewise, **OUR LADY OF MANAOAG COLLEGE, INC.** gross receipts from operations as a non-stock, non-profit educational institution are exempt from value-added tax (VAT) pursuant to Section 109 (1) (H) of the 1997 Tax Code, as amended.

However, other activities involving sale of goods and services not in connection with its primary purposes are subject to the 12% VAT imposed under Sections 106 and 108 of the Tax Code of 1997, as amended, or 3% percentage tax imposed under Section 116 in relation to Section 109 (1) (V) of the same Code if the

gross sales or receipts from such sale of goods and services do not exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00) which tax payment may legitimately be passed on to buyers of such goods and services. ***(BIR Ruling No. 170-11, May 25, 2011 and BIR Ruling No. 159-11 dated May 19, 2011)***

Hence, as long as **OUR LADY OF MANAOAG COLLEGE, INC.** will not engage in the regular conduct or pursuit of a commercial or economic activity, including transactions incidental thereto, it will remain exempt from VAT. ***(BIR Ruling No. 170-11, May 25, 2011and BIR Ruling No. 159-11 dated May 19, 2011)***

Moreover, the tax exemption granted to it as a non-stock, non-profit corporation under Section 30 of the Tax Code of 1997 covers only income taxes for which it is directly liable. It should be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. However, being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services.

Thus, the shifting of the VAT to it does not make it the person directly liable and therefore, it cannot invoke its tax exemption privilege under Section 30 of the Tax Code of 1997 to avoid the passing on or shifting of the VAT. ***(BIR Ruling No. 170-11, May 25, 2011 and BIR Ruling No. 159-11 dated May 19, 2011)***

Under ***Department Order No. 149-95 dated November 24, 1995 amending Department Order No. 137-87,*** interest income from currency bank deposits and yield from deposit substitute instruments used actually, directly and exclusively in pursuance of its purpose as an educational institution, are exempt from the 20% final tax and 7 1/2% tax on interest income under the expanded foreign currency deposit system imposed under Section 27 (D) (1) of the Tax Code of 1997, subject to compliance with the conditions that as a tax-exempt educational institution it shall on an annual basis submit to the Revenue District Office concerned an annual information return and duly audited financial statement together with the following:

1) Certification from their depository banks as to the amount of interest income earned from passive investment not subject to the 20% final withholding tax and 7 1/2% tax on interest income under the expanded foreign currency deposit system imposed by Section 27 (D) (1) of the Tax Code of 1997;
2) Certification of actual utilization of the said income; and
3) Board Resolution by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 15th day of the fourth month following the end of its taxable year. ***(Sec. 4, Finance Department Order No. 137-87)***

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Moreover, revenues derived from assets used in the operation of cafeterias/canteens and bookstores are exempt from taxation provided they are owned and operated by **OUR LADY OF MANAOAG COLLEGE, INC.** as ancillary activities and the same are located within its premises.

In addition, gifts, donations, and other contributions received by **OUR LADY OF MANAOAG COLLEGE, INC.** as an educational institution, are exempt from the payment of donor's tax pursuant to Section 101 (A) (3) of the Tax Code of 1997, as amended, subject to the condition that not more than 30% of said gift shall be used for administration purposes.

Donors cannot avail of full deductibility for purposes of computing taxable income under Revenue Regulations No. 13-98 without the accreditation of **OUR LADY OF MANAOAG COLLEGE, INC.** as a donee institution with the Philippine Council for NGO Certification (PCNC). Organizations seeking certification shall file with the PCNC Secretariat a letter of intent to apply for certification and submit the necessary documents. If the applicant NGO has met the minimum criteria for certification, the Board gives a 3-year or 5-year certification to the organization and informs this Office which then issues to said organization a certification of Donee Institution Status.

OUR LADY OF MANAOAG COLLEGE, INC. is advised to contact The Secretariat, Philippine Council for NGO Certification (PCNC), tel. nos. 7821-568; 7159-594; 7152-756 or telefax 7152-783.

It must be emphasized that its tax exemption does not cover withholding taxes. As an educational institution, **OUR LADY OF MANAOAG COLLEGE, INC.** is constituted as withholding agent for the government, required to withhold the tax on compensation income of its employees, or the withholding tax on income payments to persons subject to tax pursuant to Section 57 of the Tax Code of 1997, as amended.

Moreover, **OUR LADY OF MANAOAG COLLEGE, INC.** is also subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which they are registered. ***(RMC No. 76-2003)***

Under Section 235 of the Tax Code of 1997, as amended, any provision of existing general or special law to the contrary notwithstanding, the Revenue District Officer shall conduct an audit of annual information return filed, the books of accounts and other pertinent records of **OUR LADY OF MANAOAG COLLEGE, INC.** to determine compliance with the conditions set forth in the certificate of tax exemption and tax liabilities, if any. ***(BIR Ruling No. 169-11, May 25, 2011)***

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It is requested that a copy of this Letter of Exemption be attached to the aforementioned Annual Information Return.

Please note that this tax exemption ruling shall be valid for a period of three (3) years from the date of issue, unless sooner revoked or cancelled.

The Tax Exemption Ruling may be renewed upon the filing of a subsequent Application for Tax Exemption/Revalidation provided under Revenue Memorandum Order (RMO) No. 20-2013, dated July 22, 2013. ***Failure to renew the Tax Exemption Ruling shall be deemed a revocation thereof upon the expiration of the three (3)-year period.*** **The new Tax Exemption Ruling shall be valid for another period of three (3) years unless sooner revoked or cancelled.**

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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OUR LADY OF MANAOAG COLLEGE, INC.