REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 4 (3), Article XIV, 1987 Constitution; Tax Code, Sections 27 (D)(1), 30 (H); 101 (A)(3); 105; 109 (H)
BIR Ruling No. 170-11; BIR Ruling No. 169-11; BIR Ruling No. 159-11
#022-2016 1-11-2016

MARY HELP OF CHRISTIANS LEARNING CENTER FOUNDATION INC.
Sison St., Pozorrubio, Pangasinan

Attention: **JOSEFINA A. DOROL**
President

Gentlemen:

This refers to the your letters dated February 29, 2012 and January 3, 2013 duly, requesting for tax exemption pursuant to Section 30 (H) of the Tax Code of the Philippines, as amended.

It is represented that Mary Help of Christians Learning Center Foundation Inc. (formerly Mary Help of Christians Foundation Inc.)[1], with Taxpayer's Identification No. , is a non-stock, non-profit corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. dated 3 July 1992; that it is recognized by the government and permitted by the Department of Education in accordance with Government Recognition (R-I) Nos. s. id s. 1994 to operate Elementary Course (Grades I-VI) and Pre-Elementary Course, respectively; and the purposes for which it was incorporated are the following:

1) To provide enriching learning opportunities and experiences through the establishments of Learning centers that will enhance the harmonies and progressive development of the child's physical, psychological, social, moral and spiritual faculties animated by a constant love of God, neighbor and the community;
2) To propagate genuine Marian devotion;
3) To help parents in molding their children particularly the youth by offering leadership training program;
4) To train public school teachers and students in spiritual and moral values that will make them worthy citizens of our country;

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[1] Mary Help of Christians Foundation Inc. and Mary Help of Christians Learning Center Foundation Inc. are one and the same entity under which Mary Help of Christians Learning Center was established

5) To assist the government in the implementation of program on socio-economic upliftment and social justice through the establishment, maintenance and support of purely charitable and non-profit project; and
6) To help in the sanctification of the Filipino families through genuine devotion of the Alliance of the Two Hearts in the practice of the Communion of Reparation.

In support of its request, Mary Help of Christians Learning Center Foundation Inc. has completely submitted on September 14, 2015 the following documents:

1) Letter application for tax exemption;
2) Certified true copy of the Certificate of Registration with the SEC;
3) Certified true copy of the Amended Articles of Incorporation which includes the following provisions:
   a. That it is "a non-stock and non-profit";
   b. That the primary purpose for which it was created is to establish and conduct an educational institution under Section 30 (H) of the Tax Code, as amended;
   c. That no capital contribution and no part of its net earnings or asset shall belong to or inure to the benefit and/or profit any member, organizer, officer and neither in favour of or to the benefit of any specific person, corporation, association or entity. Any profit and resources obtained, owned or acquired by the association as a result of its operations, shall be directly utilized for the actual conduct of the activities constituting the purposes for which it is organized. And that at least seventy percent (70%) of the total funds of the Corporation shall be utilized to accomplish its projects/objectives and not more than thirty percent (30%) of such funds shall be utilized for administrative expenses;
   d. No compensation nor any form of remuneration in cash or in kind shall be given to directors/trustees, officers, committee chairmen or members nor shall any part of the net income of which shall inure to the benefit of any private individual; and
   e. In the event of dissolution of the Corporation, its remaining assets, after the payment of the liabilities shall be transferred, assigned or ceded in favor of any accredited association or non-stock, non-profit and non-sectarian organization organized for similar purposes, chosen by the Board of Trustees, or if there be none qualified, then in favor of the Republic of the Philippines or any of its subdivisions, instrumentalities or agencies for public purposes or would be distributed by a competent court of justice to another non-governmental organization to be used in such manner as in the judgment of the said court shall best accomplish the general purpose for which the dissolved organization was organized;
4) Certified true copy of the Amended By-Laws;
5) BIR Certificate of Registration;
6) Original copy of the BIR Certification dated 2 January 2014;

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performance by such educational institution or its primary purpose or function. (Section 27[B], Tax Code of 1997)

From the foregoing, and since Mary Help of Christians Learning Center Foundation 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. 169 dated May 25, 2011)

However, Mary Help of Christians Learning Center Foundation 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, Mary Help of Christians Learning Center Foundation Inc.'s 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 Pesos (P [2]) which tax payment may legitimately be passed on to buyers of such goods and services. (BIR Ruling No. 170-11 dated May 25, 2011 and BIR Ruling No. 159-11 dated May 19, 2011)

Hence, as long as Mary Help of Christians Learning Center Foundation 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 dated May 25, 2011 and 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 dated 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

[2] P1,919,500.00 starting January 1, 2012

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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:

(a) 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;

(b) Certification of actual utilization of the said income; and

(c) 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).

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 Mary Help of Christians Learning Center Foundation Inc. as ancillary activities and the same are located within its premises.

In addition, gifts, donations, and other contributions received by Mary Help of Christians Learning Center Foundation 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 Mary Help of Christians Learning Center Foundation 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.

Mary Help of Christians Learning Center Foundation 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, Mary Help of Christians Learning Center Foundation 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, Mary Help of Christians Learning Center Foundation 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)

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5) To assist the government in the implementation of program on socio-economic upliftment and social justice through the establishment, maintenance and support of purely charitable and non-profit project; and
6) To help in the sanctification of the Filipino families through genuine devotion of the Alliance of the Two Hearts in the practice of the Communion of Reparation.

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   c. That no capital contribution and no part of its net earnings or asset shall belong to or inure to the benefit and/or profit any member, organizer, officer and neither in favour of or to the benefit of any specific person, corporation, association or entity. Any profit and resources obtained, owned or acquired by the association as a result of its operations, shall be directly utilized for the actual conduct of the activities constituting the purposes for which it is organized. And that at least seventy percent (70%) of the total funds of the Corporation shall be utilized to accomplish its projects/objectives and not more than thirty percent (30%) of such funds shall be utilized for administrative expenses;
   d. No compensation nor any form of remuneration in cash or in kind shall be given to directors/trustees, officers, committee chairmen or members nor shall any part of the net income of which shall inure to the benefit of any private individual; and
   e. In the event of dissolution of the Corporation, its remaining assets, after the payment of the liabilities shall be transferred, assigned or ceded in favor of any accredited association or non-stock, non-profit and non-sectarian organization organized for similar purposes, chosen by the Board of Trustees, or if there be none qualified, then in favor of the Republic of the Philippines or any of its subdivisions, instrumentalities or agencies for public purposes or would be distributed by a competent court of justice to another non-governmental organization to be used in such manner as in the judgment of the said court shall best accomplish the general purpose for which the dissolved organization was organized;
4) Certified true copy of the Amended By-Laws;
5) BIR Certificate of Registration;
6) Original copy of the BIR Certification dated 2 January 2014;

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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 Mary Help of Christians Learning Center Foundation Inc. to determine compliance with the conditions set forth in the certificate of tax exemption and tax liabilities, if any. (BIR Ruling No. 170-11 dated May 25, 2011 and BIR Ruling No. 159-11 dated May 19, 2011)

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 filing of a subsequent application for Tax Exemption/Revalidation provided under the same requirements and procedures provided under Revenue Memorandum Order (RMO) No. 20-2013. 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 thee (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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JAN 05 2016

K-1-JRC
cc: Regional Director
Revenue Region 1-Calasiao, Pangasinan