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

Section 30(G) of the Tax Code of 1997
BIR Ruling No. 111-2014
#060-2016 2-9-2016

JMC FOUNDATION, INC.
21 St. Joseph St.
Balanga City, Bataan

Attention : **MARILYN M. CAMACHO**
President/CEO/Founder

Gentlemen:

This refers to your letter dated July 17, 2012 requesting for the issuance of a certificate of tax exemption for foundation.

It is represented that JMC Foundation, Inc. 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. ; and that the purposes for which it was incorporated are the following:

1. To solicit, secure, raise funds and receive donations from local, foreign sources and other financial institutions for the purpose of extending assistance to all concerned citizens;
2. To award, contribute, donate and grant financial assistance and/or valuable things for meritorious appreciations of exemplary services in the field of recognized public services, inventions and other contributions to public and economy;
3. To develop, organize and supervise business related matters necessary for the upliftment of social and economic conditions of its members and other constituents;
4. To acquire, lease, purchase and utilize lots, buildings, office space, structures, machineries and equipment necessary for the furtherance and implantation of its business operations;
5. To promote youth development program by providing educational scholarship grants, sports development and cultural preservation;
6. To encourage adult level group create, supervise and accelerate livelihood program which will upgrade respective living conditions and provide housing program to homeless group;

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7. To take care old aged person and provide daily basic need and other necessities for the rest of their lives;
8. To provide free dental, medical and other services to non-income level group and other indigents; and
9. To respond, provide and assist relief operations in times of calamities whenever necessary.

In support of its request, JMC Foundation, Inc., has completely submitted on June 30, 2014 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 Articles of Incorporation;
   a. That the corporation is non-stock, non-profit;
   b. That the primary purpose for which it was created is one of those enumerated under Sec. 30 of the Tax Code of 1997, as amended;
   c. That no part of the net income shall inure to the benefit of any its members;
   d. That the trustees do not receive any compensation; and
   e. In case of dissolution, assets of the corporation shall be transferred to similar institution or to government.
4) Certified true copy of the By-Laws;
5) BIR Certificate of Registration;
6) Original Copy of the Certification under Oath stating that there has
7) Certified true copies of the 2009, 2010, 2011 and 2012 Annual Income Tax Returns and Financial Statements for the last three (3) years of operation;
8) Original Copy of the Statement under Oath as to its Modus Operandi; and
9) *Other pertinent documents*

In reply, please be informed that Section 30 (G) provides for exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which operated primarily for the purpose of bringing about civic betterment and social improvements.

A perusal of the Audited Financial Statements submitted by JMC Foundation, Inc. for Taxable Year 2010, 2011 and 2012 disclose that for 2010 no income or source of fund was reported and 100% of the expenditures is for Administrative Purposes, for 2011 no income or source of fund was reported, almost 50% of the expenses is for admin purposes and 50% for donation and Livelihood programs and for 2012 discrepancies were noted in the amounts reflected in the Financial Statement, it did not specify the source of the gross receipts in the amount of P , however in the Sworn Statement executed on May 6, 2013 which was submitted to SEC, the said amount was shown as coming from donors, two of the donors are actually incorporators of the organization and comparing it with the Financial Statement it appears that the amount is not donation but capital contribution. Comparative Financial Statement for Taxable Year 2009 and 2008 showed that the revenues for those years came from sales however it did not mention the product sold and the summary of projects for Taxable Year 2012 it gives out free boxes of Nutri-21 Juices and free livelihood registration to Nutri 21

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#060-2016
2-9-2016

Juice, however, no information is provided in the Financial Statement as to the connection of the foundation with the Nutri 21 Juice.

Organizations that promote social welfare should primarily promote the common good and general welfare of the people of the community as a whole. JMC Foundation, Inc. was not able to prove that it is operating exclusively for the promotion of social welfare pursuant to Section 30 (G) of the Tax Code of 1997, as amended

Along with police power and eminent domain, taxation is one of the three basic and necessary attributes of sovereignty. Thus, the State cannot be deprived of this most essential power and attribute of sovereignty by vague implications of law. Rather, being derogatory of sovereignty, the governing principle is that tax exemptions are to be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority; and he who claims an exemption must be able to justify his claim by the clearest grant of statute.

Tax exemptions must be construed strictly against the taxpayer and liberally in favor of the taxing authority. The burden of proof rests upon the party claiming exemption to prove that it is in fact covered by the exemption so claimed. In case of doubt, non-exemption must be favored. Taxes being the lifeblood of the government that should be collected without unnecessary hindrance, every precaution must be taken not to unduly suppress it. (BIR Ruling No. 111-14 dated April 21, 2014)

IN VIEW OF THE FOREGOING, this Office is of the opinion that JMC Foundation, Inc. does not qualify for exemption under Section 30 (G) of the NIRC, as amended. It is therefore liable for regular corporate income taxes imposed under Title II of the same Code and other applicable taxes such as Value-Added Tax (VAT) or Percentage Tax.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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K-1
cc: Regional Director
Revenue Region 4, Pampanga