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

Sec 30 of the Tax Code, as amended; EO 577; EO 869; RA 10026	000-00	#077-2016

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36/ 927-09-63

Date: March 1, 2016

DARASA RURAL WATERWORKS ASSOCIATION, INC.
Pres. Laurel Highway, Brgy. Darasa, Tanauan City

Attention: **LUZVIMINDA M. DIMAANO**
General Manager

Gentlemen:

This refers to your letter dated April 2, 2011 and February 25, 2013 requesting tax exemption pursuant to Section 30 of the Tax Code and Executive Order (EO) No. 577 dated January 12, 1980, as amended by EO No. 869 dated February 2, 1983.

It is represented that Darasa Rural Waterworks Association, Inc. with Tax Identification Number , is a non-profit, self liquidating, non-political and non-sectarian entity organized under the laws of the Philippines; that it is registered by virtue of Executive Order No. 577 (creating the Rural Waterworks Development Corporation) and later by Executive Order No. 124 (Local Water Utilities Administration) under Registration No. lated July 28, 1982.

In reply, we regret to inform you that we cannot grant your request for lack of factual and legal basis since your corporation is not among those exempt corporations under Section 30 of the Tax Code of 1997, as amended.

Moreover, Section 1, 2 and 33 of Executive Order (EO) 577[1] and Section 6 of Executive Order (EO) 869[2] partly provides:

> *Sec. 1. Declaration of Policy It is hereby declared to be the policy of the State to pursue in an orderly and vigorous manner the attainment of complete coverage of water supply services for the whole country. xxx*
> *xxx xxx:*

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[1] CREATING THE RURAL WATERWORKS DEVELOPMENT CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR, AND FOR OTHER PURPOSES
[2] AMENDING EXECUTIVE ORDER NO. 577 RENAMING THE RURAL WATERWORKS ASSOCIATIONS AS RURAL WATERWORKS AND SANITATION ASSOCIATIONS AND FOR OTHER PURPOSES

a) xxx xxx xxx;

b) The MWSS shall concentrate its operations in Metropolitan Manila and such contiguous areas as may be added to its area of jurisdiction in accordance with the provisions of its charter;

c) The LWUA shall promote water districts in cities and municipalities with a population of at least 20,000 each; and

d) A separate and permanent institution shall handle the rural water supply sector and areas not serviced by the abovementioned agencies.

xxx xxx xxx" (Boldfacing supplied)"

Sec. 2. Creation of Rural Waterworks Development Corporation To implement the foregoing policy, there is hereby created a public corporation to be known as the Rural Waterworks Development Corporation hereinafter referred to as the Corporation, which shall be primarily responsible for the formation of RWA's that will construct, operate and maintain water supply systems in the rural areas. It shall likewise, provide technical, institutional and financial assistance to the RWA's. The Corporation shall be directly under the Office of the President.

Sec. 33. Applicability. This Chapter shall apply only to franchise to supply water in areas outside the coverage of the LWUA and the MWSS, with any question of jurisdiction to be settled by the National Water Resources Council in case of dispute.

xxx xxx xxx

Sec. 6. There will be added a new section to Executive Order No. 577, which shall be known as section 33 and shall read as follows:

> *"Sec. 33. Exemption from Securities and Exchange Commission; Exemption from taxes, imposts, duties, fees.*
>
> *(a) RWSA's shall be exempt from regulation by the Securities and Exchange Commission.*
>
> *The provisions of the Securities Act shall not apply to any note, bond or other evidence of indebtedness issued by any RWSA or to any mortgage, deed of trust, indenture or other instrument executed to secure the same. The provisions of said Act shall not apply to the issuance of membership certificates or any evidence of member or patron interest by the RWSA's.*
>
> *(b) The RWSA's shall be exempt from all National Government, local government and municipal taxes and fees, including any franchise filing, recordation, license or permit fees or taxes, charges or costs involved in any court or administrative proceeding in which it may be a party, and of all duties or imposts on foreign goods acquired for its operations.*

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On the other hand, Section 3(g) of Presidential Decree (PD) No. 198[3] defines a local water district as follows:

Section 3. Definitions. – xxx xxx xxx

xxx xxx xxx

(g) District. A local water district formed pursuant to Title II of this Act.

xxx xxx xxx

Moreover, Section 1 of Republic Act No. 10026 entitled "AN ACT GRANTING INCOME TAX EXEMPTION TO LOCAL WATER DISTRICTS BY AMENDING SECTION 27 (C) OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED, AND ADDING SECTION 289-A TO THE CODE, FOR THE PURPOSE" provides:

> *SECTION 1. Section 27 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act No. 9337, is hereby further amended to read as follows:*
>
> *"SEC. 27. Rates of Income Tax on Domestic Corporations. —*
>
> *"xxx xxx xxx*
>
> *"(C) Government-owned or -Controlled Corporations, Agencies or Instrumentalities. — The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies, or instrumentalities owned or controlled by the Government, except the Government Service and Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), **the local water districts (LWD)** and the Philippine Charity Sweepstakes Office (PCSO), shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in a similar business, industry, or activity.*

Pursuant to the above provisions, the Rural Waterworks Development Corporation is a public corporation which shall be primarily responsible for the formation of rural waterworks associations that will construct, operate and maintain water supply systems in the rural area; and that it is applicable only to franchise to supply water in areas outside the coverage of the LWUA (Local Water Utilities Administration) and the MWSS (Metropolitan Waterworks and Sewerage System).

The above-quoted provision specifically excepted only five (5) corporations, namely, GSIS, SSS, PHIC, LWD and PCSO from the payment of regular corporate income tax. All other government-owned or controlled corporations, agencies or instrumentalities engaged in a similar business, industry or activity as that of an

[3] DECLARING A NATIONAL POLICY FAVORING LOCAL OPERATION AND CONTROL OF WATER SYSTEMS; AUTHORIZING THE FORMATION OF LOCAL WATER DISTRICTS AND PROVIDING FOR THE GOVERNMENT AND ADMINISTRATION OF SUCH DISTRICTS; CHARTERING A NATIONAL ADMINISTRATION TO FACILITATE IMPROVEMENT OF LOCAL WATER UTILITIES; GRANTING SAID ADMINISTRATION SUCH POWERS AS ARE NECESSARY TO OPTIMIZE PUBLIC SERVICE FROM WATER UTILITY OPERATIONS, AND FOR OTHER PURPOSES

ordinary taxable corporation, which are not mentioned therefore are deemed taxable on their gross income.

Considering that rural waterworks associations registered under Executive Order No. 577 are different from local water districts registered under P.D. No. 198 which are specifically included by RA No. 10026, regrettably, this Office is of the opinion that your request that you be exempt from the payment of tax is hereby denied for lack of legal basis.

Furthermore, in the case of Government of the Philippine Islands v. Monte de Piedad[4], the Court has declared that he who claims an exemption from his share of the common burden of taxation must justify his claim by showing that the Legislature intended to exempt him by words too plain to be beyond doubt or mistake.

In addition, in the case of Digital Telecommunications, Inc. v. City Government of Batangas, et. al.[5], the court adhered to the same principle when it pronounced:

> *"Tax exemptions must be clear and unequivocal... Tax Exemptions must be clear and unequivocal. A taxpayer claiming a tax exemption must point to a specific provision of law conferring on the taxpayer, in clear and plain terms, exemption from a common burden. Any doubt whether a tax exemption exists is resolved against the taxpayer."*

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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[4] 35 Phil. 42 (1916)
[5] G.R. No. 156040, December 11, 2008