June 28, 2018

BIR RULING NO. 1031-18

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Sec. 30 (H) of the NIRC of 1997, as amended; RMO No. 44-2016

Jesus Christ King of Kings and Lord of Lords Academy (JCKL Academy), Inc.
Marilag Subd., Zone I-A, Dasmariñas,
Cavite 4114

Attention: *AAA*

BBB

Gentlemen :

This refers to your letter dated August 11, 2016, applying on behalf of **JESUS CHRIST KING OF KINGS AND LORD OF LORDS ACADEMY (JCKL ACADEMY), INC.**, for tax exemption certificate being enjoyed by non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended.

It is represented that **JESUS CHRIST KING OF KINGS AND LORD OF LORDS ACADEMY (JCKL ACADEMY), INC.** with Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 1RC0000658131 dated January 31, 1996, is a non-stock, non-profit educational institution duly organized and existing under the laws of the Republic of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. ANO94-001421; that the purposes for which it was incorporated are:

1. *To establish and operate an educational institution for levels in the Municipality of Dasmariñas, Province of Cavite, to acquire, own, operate and maintain school facilities for pre-school, elementary, secondary and tertiary levels based on the guidelines, program and curriculum mandated by the board of National Education, and to acquire by pure purchase, lease or in any other manner, land and buildings and maintain school facilities in conformity with the requirements of the Department of Education, Culture and Sports*

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(DECS);

2. *To contribute and participate in the educational progress of the government and maintain a high quality education among the youth, provide a medium of cultural, social and moral development thru quality Christian education and a training ground for academic expertise for men and women to prepare themselves for their future endeavor;*

3. *To acquire by grants, donations or exchange or by any form from the government or any other private or public entities or from any other country which may be necessary and advantages to or incidental to the business of the corporation; and*

4. *To borrow or raise money necessary to meet the financial requirements of its operation by the issuance of promissory notes and other evidences of indebtedness and to secure the re-payment thereof by mortgage, pledge, deed of trust or lien upon the properties of the foundation and other evidences of indebtedness in payment for properties acquired by the foundation.*

and that it was permitted and granted the following Government Recognitions/Permits by the Department of Education (DepEd):

Government Recognition/Permit No.	Date issued	Degree/Program
SHS-314, s. 2015	Aug. 12, 2015	Senior High School Program
008 s. 2000	Dec. 13, 2013	Complete Secondary Course
E-031 s. 1995	Dec. 13, 2013	Complete Elementary Course
K-007 s. 1995	Dec. 13, 2013	Complete Pre-Elementary Course

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."* (Emphasis supplied)

Likewise, Section 30 (H) of the National Internal Revenue Code of 1997, 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:*

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xxx xxx xxx

*(H) A **non-stock and non-profit** educational institution; x x x"* (Emphasis supplied)

Moreover, there are two requisites in order for an educational institution to be exempt from tax as provided under Revenue Memorandum Order (RMO) No. 44-2016 dated July 25, 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. (Emphasis supplied)

Under the above quoted provisions, one of the requirements for an educational institution to be exempt from income tax pursuant to the provisions of paragraph 3, Section 4, Article XIV of the 1987 Constitution, in relation to Section 30 (H) of the National Internal Revenue Code of 1997, as amended, and RMO No. 44-2016, is to be organized as a non-stock, non-profit educational institution. However, in the instant case, the submitted Amended Articles of Incorporation of **JESUS CHRIST KING OF KINGS AND LORD OF LORDS ACADEMY (JCKL ACADEMY), INC.** disclosed that its registration with the SEC is only a non-stock corporation. Consequently, it cannot be qualified as a non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended. Therefore, it shall be treated as a proprietary educational institution subject to ten percent (10%) preferential rate pursuant to Section 27 (B) of the National Internal Revenue Code of 1997, as amended.

Please bear in mind that, *"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."* [1]

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. *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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