June 28, 2018

BIR RULING NO. 1033-18

Section 30 (E) of the Tax Code of 1997; BIR Ruling No. 174-11; BIR Ruling No. 172-11; BIR Ruling No. 165-11; BIR Ruling No. 115-11

Hon. Raul M. Gonzalez Sr. Foundation, Inc.
Petalsville Subdivision, Tabuc Suba, Jaro, Iloilo City

Attention: *AAA*

Gentlemen :

This refers to your letter dated January 18, 2017, requesting for confirmation on behalf of the Foundation of _____, former Department of Justice Secretary Raul M. Gonzalez, Sr., namely, the **HON. RAUL M. GONZALEZ SR. FOUNDATION, INC.**, requesting for the issuance of a certificate of tax exemption enjoyed by a non-stock corporation or association organized and operated exclusively for charitable purposes under Section 30 (E) of the Tax Code of 1997, as amended.

It is represented that Hon. Raul M. Gonzalez Sr. Foundation, Inc. with Taxpayer's Identification No. 000-000-000-000, 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. CN201423637; and that the purpose for which it was incorporated is to preserve and promote the vision of Hon. Raul M. Gonzalez Sr. as regards noble public service and a just society in the Philippines.

In reply, please be informed that this Office cannot as yet issue the requested ruling/certificate of tax exemption because Hon. Raul M. Gonzalez Sr. Foundation, Inc. has to prove by actual operation for at least three (3) years that it is really a corporation/association exempt from income tax under Section 30 (E) of the Tax Code of 1997, as amended. *(BIR Ruling No. 174-11 dated May 27, 2011 and BIR Ruling No. 165-11 dated May 17, 2011)*

Hon. Raul M. Gonzalez Sr. Foundation, Inc. can file the necessary annual information return instead of an income tax return on or before the 15th day of the fourth month following the end of its taxable year as required under Section 24 of Revenue Regulations No. 2-40 dated February 10, 1940 *(Collector vs. Sinco, G.R. L-9276 dated*

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October 23, 1956). Based on such information return, we shall conduct the necessary investigation on the activities undertaken during the period. The letter of exemption shall thereafter be issued depending upon the result of our investigation.

However, Hon. Raul M. Gonzalez Sr. Foundation, Inc. is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof, which income should be returned for taxation. Likewise, interest income from currency bank deposits and yield or any other monetary benefits from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax: provided, however, that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15% [1] final withholding tax pursuant to Section 27 (D) (1), in relation to Section 57 (A), both of the Tax Code of 1997, as amended. Moreover, it is required to file on or before the 15th day of the fourth month following the end of the accounting period a Profit and Loss Statement and Balance Sheet with the Annual Information Return under oath, stating its gross income and expenses incurred during the preceding period and a certificate showing that there has not been any change in its By-laws, Articles of Incorporation, manner of operation and activities as well as sources and disposition of income. *(BIR Ruling No. 174-11 dated May 27, 2011 and BIR Ruling No. 165-11 dated May 17, 2011)*

It should be understood that Hon. Raul M. Gonzalez Sr. Foundation, Inc. shall be constituted as withholding agent of the government if it acts as an employer and its employee receives compensation income subject to the withholding tax under Section 79 (A), Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended, or if it makes income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997, as amended, also as implemented by Revenue Regulations No. 2-98, as amended. *(BIR Ruling No. 174-11 dated May 27, 2011 and BIR Ruling No. 165-11 dated May 17, 2011)*

Under Section 235 of the Tax Code of 1997, as amended, any provision of existing general and special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organization or grantees of tax incentives shall be subject to examination by the BIR for purposes of ascertaining compliance with the conditions under which it has been granted tax exemptions or tax incentives, and its tax liabilities, if any.

It is 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 the Association

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is registered *(Revenue Memorandum Circular (RMC) No. 76-2003)*.

Finally, for purposes of securing a permanent exemption after the three (3)-year period, **Hon. Raul M. Gonzalez Sr. Foundation, Inc.** is required to submit the following documents pursuant to Revenue Memorandum Circular No. 20-2013:

1) Original copy of the application letter for issuance of tax exemption;

2) Certified true copy of the Certificate of Registration with the SEC;

3) Certified true copy of the Articles of Incorporation which includes the following provisions:

    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 of 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 the government.

4) Certified true copy of the By-Laws;

5) Original copy of Certification under Oath by an executive officer of the corporation or association as to: (i) all previous amendments/changes in the Articles of Incorporation and By-Laws, (ii) manner of activities, and (iii) the sources and disposition of income, if any, of the subject corporation or association. If there are no amendments/changes, the Certification shall state this fact;

6) Original copy of the Certification under Oath by the Treasurer of the corporation or association as to the amount of income, compensation, salaries or any emoluments paid by the corporation or association to its trustees, officers and other executive officers. Provided, that, a corporation sole, which, by its nature, does not have trustees, corporate officers or executive officers need not submit the certification required under this subparagraph;

7) Original copy of the Certification issued by the RDO where the corporation or association is registered that the corporation or association is not the subject of any pending investigation, on-going

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audit, pending tax assessment, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal; or if thereby be any, the Original copy of the Certification issued by the RDO on the status thereof;

8) Certified true copies of the Income Tax Returns or Annual Information Returns and Financial Statements for the last three (3) years of operation;

9) Original copy of a statement under Oath by an executive officer of the corporation or association as to its *modus operandi* which shall include:

   i. A full description of the past, present, and proposed activities of the corporation or association;

   ii. A narrative description of anticipated receipts and contemplated expenditures.

   iii. 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/application shall be subject to income tax.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective Jan. 1, 2018.

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