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

Section 30 (E) of the NIRC of 1997, as amended; RMO No. 20-2013;
BIR Ruling No. 466-2014
S30E-019-2020
JAN 2 4 2020

GEOPLAN CEBU FOUNDATION, INC.
2nd Flr., DOST Bldg., S&T Complex Sudlon,
Lahug, Cebu City 6000

Attention: **ABUNDIOC. GULTIANO, JR.**
Chairman

Gentlemen:

This refers to your letter dated June 14, 2018, as indorsed by the Regional Director, Revenue Region No. 13, Cebu City, dated December 03, 2018, requesting on behalf of **GEOPLAN CEBU FOUNDATION, INC.** for the issuance of a certificate of tax exemption enjoyed by non-stock, non-profit corporation or association pursuant to Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **GEOPLAN CEBU FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated April 18, 1995, is a non-stock, non-profit association 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. and that the primary purpose for which the association was incorporated are:

1. *To establish and operate a Geographic Information System (GIS) center that will provide computer-based geographic information system services to local government units, national line agencies, non-government organizations and other institution engaged in planning and development activities.*
2. *To conduct training, symposia, conferences and other related activities to promote the use of Geographic Information System in development planning, land use planning, zoning, resource management and related activities.*
3. *To establish and maintain linkage with other planning institutions and other offices offering GIS and similar services to enhance the capability and coverage of the foundation.*
4. *To render services to both governmental and non-governmental agencies in the proper and productive use of all lands, according to the purposes assigned to them in local land use plans to enhance the habitability and efficiency from the viewpoint of quality of life and economic and social opportunity.*
5. *To acquire, own, hold, mortgage, or sell real and personal properties as may be necessary and incidental to the conduct of the affairs of the foundation.*

6. *To accept, receive contributions, donations or endowments from the public or private sector, whether domestic or foreign, and to administer gifts and bequest which may be accepted and received as endowments for the promotions of the aims of the foundation; manage the use of all income derived therefrom and use the same according to the purpose and in the manner specified by the donors.*
7. *To perform all and everything necessary and proper for the attainment of the purpose or the furtherance of any of the corporate powers above set forth.*

In reply, please be informed that Section 30 of the National Internal Revenue Code of 1997, as amended, enumerates the non-stock and/or non-profit corporations/associations/ organizations that are exempt from income tax in respect to income received by them as such. Section 30 (E) 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:*
>
> *xxx xxx xxx*
>
> *(E) Nonstock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;"*
>
> *xxx xxx xxx"*

A common characteristic of the organizations or associations exempt under Section 30 (E) of the Tax Code of 1997, as amended, is that they must not be organized and operated principally for profit. Moreover, the last paragraph of Section 30 of the Tax Code of 1997, as amended, clearly states that the income of whatever kind and character of these organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax.

In the submitted Financial Statements of GEOPLAN CEBU FOUNDATION, INC., show that the primary sources of its revenues come from Income – Projects, Training/Seminars/Symposia and Scanning and Maps, which was affirmed by **GEOPLAN CEBU FOUNDATION, INC.**'s Treasurer, Adela S. Lanzado, in her Certification dated June 22, 2018, stating that:

> *"The income of GEOPLAN CEBU FOUNDATION, INC. derived solely from the payments of mapping services rendered to the different Local Government Units (LGUs) of Cebu and other provinces of the Philippine and other non-government institutions that varies on the degree of services render [sic] by GEOPLAN CEBU FOUNDATION, INC."*

It shows that activities conducted are with fees. Services to paying Local Government Units (LGUs) and other non-government institutions are activities conducted for profits. They cannot be considered any other way. Such proceeds are being used exclusively for its perpetuation. It appears that this activity is being carried on by **GEOPLAN CEBU FOUNDATION, INC.** in a manner similar to organizations operated for profit. Thus, it is organized and operated principally for profit.

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The Supreme Court, in case of Commissioner of internal revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 and 195960 dated September 26, 2012, declared:

> *"A tax exemption is effectively a social subsidy granted by the state because an exempt institution is spared from sharing the expenses of government and yet benefits from them. Tax exemption for charitable institution should therefore be limited to institutions beneficial to the public and those which improve social welfare. A profit-making entity should not be allowed to exploit this subsidy to the detriment of the government and other taxpayers."*

Please bear in mind that, "*being a non-stock and/or non-profit corporation does not, by this reason alone, completely exempt an institution from tax.*"[1] Thus, "*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.*"[2] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **GEOPLAN CEBU FOUNDATION, INC.** to be exempted from income tax on its income as a Section 30 (E) corporation is hereby denied as it is not a corporation/association falls within the contemplation of Section 30 (E) of Internal Revenue Code of 1997, as amended. Therefore, **GEOPLAN CEBU FOUNDATION, INC.** shall be treated as an ordinary corporation subject to thirty percent (30%) income tax rate pursuant to Section 27 (A) and other internal revenue taxes imposed by the National Internal Revenue Code of 1997, as amended.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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COPY FURNISHED:

REVENUE REGION NO. 13 – Cebu City
Attention: Revenue District Office No. 081 –Cebu City - North

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound,
4427 Interior Old Sta. Mesa Road,
Sta. Mesa 1016 Manila

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[1] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
[2] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].