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; RMC No. 051-14
BIR Ruling No. 466-2014
S30E-020-2020
JAN 2 4 2020

REACH OUT VILLE FOUNDATION INC.
5102 Bridgeway Ave., Filinvest Corporate City,
Muntinlupa City 1770

Attention: **MARIA TERESA D. BALLESTEROS**
Corporate Secretary

Gentlemen:

This refers to your undated letter, applying on behalf of **REACH OUT VILLE FOUNDATION INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **REACH OUT VILLE FOUNDATION INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated November 02, 2005, 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 purposes[1] for which the association was incorporated is *"to give proper nutrition to children who are going to regular school so that they can effectively assimilate what is being taught; to equip the children with proper knowledge for the development of their physical, moral intellectual, and social well-being through proper guidance and supervision and through formal and non-formal kinds of education; to develop the attitude of self-reliance together with love, acceptance and social responsibility to become useful members of society; to develop good habits/virtues that will help them become better persons; and to cooperate with or assist other organizations or agencies involved in child welfare services"*.

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

[1] Amended Articles of Incorporation adopted on February 14, 2012.

S30E-020-2020
JAN 24 2020

(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"

"Non-stock" means "*no part of its income is distributable as dividends to its members, trustees, or officers*" and that any profit "*obtained as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized*".[2] "Non-profit" means that "*no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit*".[3]

Revenue Memorandum Circular (RMC) No. 51-2014 has clarified that in order for an entity to qualify as a non-stock and/or non-profit corporation/association/organization exempt from income tax under Section 30 of the National Internal Revenue Code of 1997, as amended, its earnings or assets shall not inure to the benefit of any of its trustees, organizers, officers, members or any specific person. The following are considered "inurements" of such nature:

1. *The payment of compensation, salaries, or honorarium to its trustees or organizers*; *xxx.*

In the submitted documents of **REACH OUT VILLE FOUNDATION INC.**, it was disclosed that Board of Trustees are entitled to compensation. The Sworn Certification dated July 27, 2018, executed by the Treasurer of **REACH OUT VILLE FOUNDATION INC.**, Ester Y. Garcia, states that:

"That the Trustees, officers and other executive officers of the foundation who are employed by the foundation and receives appropriate compensation also receives the following emoluments: 13th month pay"

The payment of compensation to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **REACH OUT VILLE FOUNDATION INC.** This is a form of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. This act violates the requirement that no part of the net income or assets of the corporation shall inure to the benefit of any individual or specific person. Thus, **REACH OUT VILLE FOUNDATION INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (E) of the National Internal Revenue Code of 1997, as amended.

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."* [4] 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."*[5] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

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2 Section 87, Corporation Code
3 CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012
4 Ibid.
5 Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].

S30E-020-2020
JAN 2 4 2020

In view of the foregoing, the request of **REACH OUT VILLE FOUNDATION INC.** to be exempted from income tax on its income as a Section 30 (E) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **REACH OUT VILLE 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.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

032365

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COPY FURNISHED:

REVENUE REGION NO. 8 – Makati City
Attention: Revenue District Office No. 53B – Muntinlupa City

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
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4427 Interior Old Sta. Mesa Road,
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4