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. 150-2016
S30E-021-2020
JAN 2 4 2020

GOOD NEWS CLINIC AND HOSPITAL, INC.
Tam-an, Banaue, Ifugao 3601

Attention: ANTONIO P. LIGOT, M.D.
Hospital Administrator

Gentlemen:

This refers to your letter dated May 15, 2017 applying in behalf of **GOOD NEWS CLINIC AND HOSPITAL, 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 of 1997, as amended.

Documents submitted disclosed that of **GOOD NEWS CLINIC AND HOSPITAL, INC.** with BIR Taxpayer's Identification Number (TIN) and Certificate of Registration Number dated November 17, 2008, is a non-stock, non-profit organization 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 for which the association was incorporated are:

1. *To minister to the "whole" man, body and soul, by providing facilities and personnel for an effective medical service as well as an effective spiritual ministry, both in the Hospital and through its outreach clinics, subject to the condition that purely medical or surgical services in connection therewith shall be performed by duly qualified physicians and medical personnel; and*

2. *To purchase, acquire, hold, sell, lease, exchange or otherwise deal in real and personal property, and to build, acquire, lease, purchase, mortgage buildings and offices as may be necessary and useful to carry out the primary purpose and objective of the corporation.*

In reply, please be informed that your request in behalf of **GOOD NEWS CLINIC AND HOSPITAL, INC.** for exemption from income tax as a non-stock non-profit organization for charitable and social welfare purposes is denied for lack of legal basis.

Subsections (E) and (G) of Section 30 of the National Internal Revenue Code of 1997, as amended, state that:

"SEC. 30. Exemptions 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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(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

(G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

xxx xxx xxx

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing 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 imposed under this Code."

The Supreme Court, in the case of *St. Luke's Medical Center, Inc. vs. Commissioner of Internal Revenue*[1], had the occasion to rule on the qualification of St. Luke's Medical Center, Inc. as a non-stock, non-profit operating exclusively for charitable and social welfare purposes, as follows:

"Section 30 (E) of the NIRC provides that a charitable institution must be:

(1) A non-stock corporation or association;
(2) Organized exclusively for charitable purposes;
(3) Operated exclusively for charitable purposes; and
(4) 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.

Thus, both the organization and operations of the charitable institution must be devoted "exclusively" for charitable purposes. The organization of the institution refers to its corporate form, as shown by its articles of incorporation, by-laws and other constitutive documents. Section 30 (E) of the NIRC specifically requires that the corporation or association be non-stock, which is defined by the Corporation Code as "one where no part of its income is distributable as dividends to its members, trustees, or officers" and that any profit "obtain[ed] 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." However, under Lung Center, any profit by a charitable institution must not only be plowed back "whenever necessary or proper," but must be "devoted or used altogether to the charitable object which it is intended to achieve."

In its decision, the Supreme Court discussed the requirements under Sections 30 (E) and 30 (G):

"To be exempt from income taxes, Section 30(E) of the NIRC requires that a charitable institution must be "organized and operated exclusively" for charitable purposes. Likewise, to be exempt from income taxes, Section 30(G) of the NIRC requires that the institution be "operated exclusively" for social welfare."

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[1] G.R. Nos. 195909 & 195960, September 26, 2012

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The Supreme Court had also noted that St. Luke's had revenues to paying patients and held that a hospital which receives revenues from paying patients is not an institution "operated exclusively" for charitable purposes as clearly, revenues from paying patients are income received from "activities conducted for profit." Thus, it declared:

> *"The Court cannot expand the meaning of the words "operated exclusively" without violating the NIRC. Services to paying patients are activities conducted for profit. They cannot be considered any other way. There is a purpose to make profit over and above the cost of services."*

In rejecting the claim of St. Luke's as a non-stock, non-profit corporation organized and operated exclusively for charitable and social welfare purposes, the Supreme Court held that:

> *"The Court finds that St. Luke's is a corporation that is not "operated exclusively" for charitable or social welfare purposes insofar as its revenues from paying patients are concerned. This ruling is based not only on a strict interpretation of a provision granting tax exemption, but also on the clear and plain text of Section 30(E) and (G). Section 30(E) and (G) of the NIRC requires that an institution be "operated exclusively" for charitable or social welfare purposes to be completely exempt from income tax. An institution under Section 30(E) or (G) does not lose its tax exemption if it earns income from its for-profit activities. Such income from for-profit activities, under the last paragraph of Section 30, is merely subject to income tax, previously at the ordinary corporate rate but now at the preferential 10% rate pursuant to Section 27(B)."*

In this case, while **GOOD NEWS CLINIC AND HOSPITAL, INC.** was organized as a non-stock and non-profit organization, this does not automatically exempt it from paying taxes. This only refers to its organization. An examination of its audited financial statements shows that it is not operated exclusively for charitable or social welfare purposes as it mainly derives income from the services rendered and operation as a hospital which are all for-profit activities.

Wherefore, this Office is of the opinion that **GOOD NEWS CLINIC AND HOSPITAL, INC.** does not qualify for income tax exemption under Sections 30 (E) and 30 (G) of the National Internal Revenue Code of 1997, as amended. However, it remains a proprietary non-profit hospital under Section 27 (B) of the National Internal Revenue Code of 1997 as long as it does not distribute any of its profits to its members and such profits are reinvested pursuant to its corporate purposes. Thus, **GOOD NEWS CLINIC AND HOSPITAL, INC.**, as a proprietary non-profit hospital, is entitled to the preferential tax rate of 10% on its net income from its for-profit activities.

Value-Added Tax (VAT)

Section 109 (G) of the National Internal Revenue Code of 1997, as amended, provides, *viz*:

> *"SEC. 109. Exempt Transactions. — Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:*
>
> *xxx xxx xxx*
>
> *(G) Medical, dental, hospital and veterinary services except those rendered by professionals;"*

Applying the above quoted provision, **GOOD NEWS CLINIC AND HOSPITAL, INC.'s** hospital services is exempt from VAT pursuant to Section 109 (G) of the National Internal Revenue Code of 1997, as amended.

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However, it should be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. Being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services. Thus, notwithstanding that hospital services rendered by **GOOD NEWS CLINIC AND HOSPITAL, INC.** is exempt from VAT, its purchase of goods or properties or services and importation of goods shall nevertheless be subject to the 12% VAT pursuant to Sections 106 and 107 of the National Internal Revenue Code of 1997, as amended.

Moreover, under Section 235 of the National Internal Revenue 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.

Finally, it is subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the National Internal Revenue 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 organization is registered. [Revenue Memorandum Circular (RMC) No. 76-2003]

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

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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COPY FURNISHED:

REVENUE REGION NO. 02 – Baguio City
Attention: Revenue District No. 012 – Lagawe, Ifugao City