REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Article XIV, Sec. 4 (3) of the 1987 Philippine Constitution; Sec. 30 (H), NIRC of 1997, as amended; R.A. 9520
RMC 44-2016 RMO 64-2013
1319 – 2018
NOV 15 2018

CORDIS MARIAE SCHOOL: A SUBSDIARY COOPERATIVE OF MABUTING PASTOL MULTI-PURPOSE COOPERATIVE (MPMC)
Gate 1 MRB Compound, NHA-NGHCP, Pilot Area
Brgy. Commonwealth, Quezon City

Attention: **LILIA P. DE LEON**
Chairman, BOT & Managing Director

Madame:

This refers to your letter dated January 8, 2016, applying on behalf of CORDIS MARIAE SCHOOL: A SUBSIDIARY COOPERATIVE OF MABUTING PASTOL MULTI-PURPOSE COOPERATIVE (MPMC) for tax exemption certificate being enjoyed by non-stock, non-profit educational institution[1] under Section 30 (H) of the National Internal Revenue Code of 1997, as amended which was forwarded to this Office by Revenue Region No. , Quezon City through a 2nd Indorsement dated November 11, 2016.

It is represented that CORDIS MARIAE SCHOOL with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. , is a primary subsidiary education cooperative; that it is registered with the Cooperative Development Authority (CDA) with under Certificate of Registration No. issued on July 4, 2011; and that it is primary objective is to:

> *"To engage in: The operation of complete basic education (pre-elementary and high school levels) and Alternative Learning Education Services for out-of-school youths and adults to uplift their living standards, provide related services like school canteen, educational loan, student transport service, school supplies outlets, seminars and capability-building for zero waste management and environment-friendly environment and other similar services which are essential for the operation of a child-friendly school."*

In reply, please be informed that paragraph 3, Section 4, Article XIV of the 1987 Constitution, states that:

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[1] First Paragraph of the Letter.

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> *"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 (NIRC) of 1997, as amended from which you base your application specifically provides that:

> *"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*
>
> *(H) A non-stock and non-profit educational institution;*
>
> *xxx xxx xxx"*

Revenue Memorandum Order (RMO) No. 44-2016 provides two requisites for a non-stock, non-profit educational institution to be exempt from tax, 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.

Further, Revenue Memorandum 64-2016 which circularized clarifications in the nature, tax treatment, registration and compliance requirements of corporations and associations under Section 30 of the NIRC of 1997, as amended, provides the characteristics of a non-stock, non-profit educational institution, such as:

> *"H. A non-stock and non-profit educational institution:*
> *1. Characteristics:*
> *a. It is organized as a non-stock, non-profit corporation;*
> *b. It is purposely organized as an educational institution;*
> *c. It is registered or recognized by the Department of Education (DepEd), Commission on Higher Education (CHED), or Technical Education and Skills Development Authority (TESDA); and*
> *d. It has no net earnings or assets inuring to the benefit of any member, organizer, officer or any specific person."*

The Constitution and the above quoted provisions clearly provides for exemption from taxes; however, such exemption covers only non-stock, non-profit educational institutions.

"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].

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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

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A cooperative as defined under the Cooperative Code is *an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universal accepted cooperatives principles*[4].

Hence, inasmuch as Cordis Mariae School is a primary subsidiary education cooperative and not a non-stock, non-profit educational institution, the tax exemption granted under the Constitution and Section 30 (H) of the NIRC of 1997, as amended cannot be invoked by it in seeking exemption as the same is not applicable to it.

While this bureau acknowledges the tax exemption privilege of cooperatives granted under Article 60 and 61 of the Philippine Cooperative Code of 2008, the request of Cordis Mariae School for the grant of tax exemption as a non-stock, non-profit educational institution under Section 30 (H) of the NIRC of 1997, as amended, cannot be granted.

In view of the foregoing, this Office regrets to inform you that your request for issuance of Certificate of Tax Exemption is hereby denied.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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K1-FR-16-2346
Copy Furnished:
Revenue Region 7- Quezon City
Attn: Revenue District Office No. 28-Novaliches

[4] Republic Act No. 9520 otherwise known as the Philippine Cooperative Code of 2008