November 15, 2018

BIR RULING NO. 1329-18

RMC 35-2012; R.A. 8424, as amended

The Cheese Club of the Philippines, Inc.
7th Floor Equitable Bank Tower
8751 Paseo De Roxas, Salcedo Village,
Makati City

Attention: *AAA*

Madam :

This refers to your letter, dated October 8, 2012 and received by this Office on October 12, 2012, requesting for the issuance of a ruling exempting *The Cheese Club of the Philippines, Inc.* from payment of income tax and value-added tax as imposed by the National Internal Revenue Code (NIRC) of 1997, as amended, and clarified and reiterated in Revenue Memorandum Circular No. (RMC) 35-2012 on recreational clubs.

It is represented that *The Cheese Club of the Philippines, Inc.* with Taxpayer's Identification No. 000-000-000, is a non-stock, non-profit corporation registered with the Securities and Exchange Commission (SEC) bearing Registration No. CN200605453; and that the purpose for which it was incorporated is:

> "To create a congenial social atmosphere wherein Club members can congregate periodically for the purpose of cheese tasting and other activities geared towards the appreciation of cheese and its associated products."

You contend that since *The Cheese Club of the Philippines, Inc.* "does not fall under the classification of an exclusive sports and recreational club, having no sports facilities and revenue from such kind of activity" it should be removed from the coverage of RMC 35-2012 which clarifies the taxability of clubs organized and operated exclusively for pleasure, recreation and other non-profit purposes and their liability for income tax and value-added tax (VAT).

Recreational clubs are clubs which are organized and operated exclusively for

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pleasure, recreation, and other non-profit purposes.

The definition of a recreational club is not limited to clubs with sports facilities. As explained in RMC 35-2012, the exemption provided to recreational clubs in the NIRC of 1977 was no longer provided for by the NIRC of 1997, as amended, (Republic Act No. 8424). Hence, a recreational club does not fall under any of the enumeration of exempt corporations under the NIRC of 1997, as amended.

Considering the foregoing, we rule that *The Cheese Club of the Philippines, Inc.* is a recreational club subject to income tax and VAT as imposed under Sections 27 and 105 of the NIRC of 1997, as amended, which is enunciated in RMC No. 35-2012.

It should also be remembered that revenue memorandum circulars are issuances that publish pertinent and applicable portions, as well as amplifications, of laws, rules, regulations and precedents issued by the BIR and other agencies/offices. These are not sources of tax exemptions as tax exemptions may only be granted by laws such as the NIRC of 1997, as amended.

The general rule is that all entities are subject to tax unless expressly exempted by law from taxation. It is also a well-settled rule that he who claims exemption should prove by convincing proofs that he is exempted. (*Visayan Cebu Terminal Co., Inc. vs. Commissioner*, L-19530 & L-19444, February 27, 1965) Exemptions from taxation are highly disfavored in law; and he who claims an exemption must be able to justify his claim by the clearest grant of organic or statute law. An exemption from the common burden cannot be permitted to exist upon vague implications. (*Asiatic Petroleum Co. vs. Lianas, 49 Phil. 466 cited in Collector vs. Manila Comm. of Customs*, L-28731, 28902, Mar. 29, 1979)

Having no basis in law, your request for exemption from income tax and VAT is hereby denied.

Please be guided accordingly.

Very truly yours,

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

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