**November 15, 2018**

# BIR RULING NO. 1340-18

Section 30 (C) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14; BIR Ruling No. 151-2014

*Meralco Employees Mutual Aid and Benefits Association, Inc.*
G/F Employee Service Center
Meralco Compound, Ortigas Avenue,
Ugong, Pasig City 1605

Attention: *AAA*

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Gentlemen :

This refers to your application for the issuance of Certificate of Tax Exemption pursuant to Section 30 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which was forwarded to this Office by Revenue Region No. 07, Quezon City, through an Indorsement dated January 24, 2014.

It is represented that **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, INC.** with BIR Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 3RC0000456616 dated January 01, 1997, 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. 39354 and with SEC Certificate of Incorporation dated November 09, 2007; and that the purposes [1] for which the association was incorporated are:

1. *To provide a system of death, sickness, or other mutual benefits and to render mutual aid and assistance to its members and their families who sustained serious physical injuries or suffered personal damages due to natural calamities;*

2. *To foster the interest and promote the mutual concern of the members by*

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*protecting and giving financial assistance to one another; and*

3. *To encourage and foster the growth and the general welfare of the members and/or their beneficiaries.*

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 corporation/associations/organizations that are exempt from income tax in respect to income received by them as such. Section 30 (C) 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
>
> *(C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or mutual aid association or a nonstock corporation organized by employees providing for the payment of life, sickness, accident or other benefits exclusively to the members of such society, order, or association, or nonstock corporation or their dependents; x x x"*

"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 earning 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 xxx xxx

In the submitted documents of **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, INC.** it was disclosed that the Board of Trustees are

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receiving allowances, per diems and special compensations. [4]

The giving of allowances, per diems, special compensation and other incentives to the members of the Board of Trustees are considered distributions of the equity (including the net income) of **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, INC.** These are forms of private inurements which the law prohibits in the organization and operation of a non-stock, non-profit corporation. These acts violate 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, **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, INC.** cannot be qualified as a non-stock, non-profit corporation or association under Section 30 (C) 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*." [5] 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*." [6] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, INC.** to be exempted from income tax on its income as a Section 30 (C) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **MERALCO EMPLOYEES MUTUAL AID & BENEFITS ASSOCIATION, 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,

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

## Footnotes

1. Second Provision of the association's Articles of Incorporation.
2. Section 87, Corporation Code.

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3. *CIR vs. St. Luke's Medical Center, Inc.*, G.R. Nos. 195909 and 195960 dated 26 September 2012.
4. Financial statements of the Association and the original copy of the Certification under Oath by the Treasurer of the Association.
5. *CIR vs. St. Luke's Medical Center, Inc.*, G.R. Nos. 195909 and 195960 dated 26 September 2012.
6. *Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation* [G.R. No. 166408, 6 October 2008].

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