REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 30 of the Tax Code of 1997, as amended
BIR Ruling No. 126-14 BIR Ruling No. 357-13
#144-2016 4-21-2016

ASSOCIATION OF CATEEL MARYKNOLLERS (ACMI), INC.
104 Molave St. Monte Maria Village Phase 1
Catalunan Grande, Davao City

Attention: **B. Brillo L. Reynes**
President

Gentlemen:

This refers to your letter dated December 3, 2010 duly indorsed by Revenue Region No. 19 – Davao City through 1st Indorsement dated August 23, 2011, requesting for the issuance of a certificate of tax exemption.

It is represented that **ASSOCIATION OF CATEEL MARYKNOLLERS (ACMI), INC.** with Taxpayer's Identification No. . is organized as a non-stock, non-profit corporation registered with the Securities and Exchange Commission (SEC) under Registration No. dated November 9, 2010; that the purposes for which it was incorporated are the following:

1) *Primarily to provide an organizational set-up whereby students who have attended classes in Maryknoll High School/Maryknoll Academy of Cateel (INSTITUTION, for brevity) continue to interact, pursue common interests and undertake laudable projects that enhance the integrity of the INSTITUTION and/or redound to the general welfare of communities in Cateel;*
2) *To support, uphold, maintain and carry on the objectives, goals and principles of the INSTITUTION, particularly the provision of quality Catholic education to students from Cateel and neighboring localities of Davao Oriental;*
3) *To harness the capabilities and resources of the Association of Cateel Maryknollers (ACMI), Inc. in promoting the development of the INSTITUTION and in pursuing advocacies and initiatives that contribute to the socio-economic welfare of local residents;*
4) *To ensure the well-being of ACMI members and their families by fostering understanding and goodwill, and by promoting cooperation amongst them, and;*

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5) *To recognize and bestow honor to those involved in the education and development of the INSTITUTION, particularly their teachers and benefactors.*

and that in support of your request, the following documents were submitted:

1) Photocopy of the BIR Certificate of Registration;
2) Certified true copies of the Corporation's Certificate of Incorporation and By-laws;
3) Verification and Certification of Non-Forum Shopping;
4) Affidavit of No Operation executed by the Corporate Treasurer dated August 22, 2011;
5) Photocopy of the BIR Certificate of Registration;
6) Affidavit of the Corporate President, B. Brillo L. Reynes, dated June 28, 2011 on the *modus operandi* and sources of income of the corporation;
7) Affidavit of the Corporate Secretary, Urbano A, Lim, Jr., dated June 23, 2011 on corporate purposes and sources of revenue;
8) Affidavit of the Treasurer, Luciana F. Rosenberger, on the sources of revenues dated June 22, 2011; and
9) Photocopy of Annual Income Tax Return for taxable year 2010 (BIR Form 1702)

In reply, please be informed that your request for tax exemption as a non-stock non-profit corporation under Section 30 of the Tax Code of 1997, as amended, is hereby denied for lack of factual basis. Annual Income Tax Return for 2010 submitted showed that the corporation had no operations for said year.

Note that tax exemptions are never presumed and thus, as ruled by the Supreme Court in the case of *Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation (G.R. No. 166408 dated October 6, 2008)*:

> *"He who claims an exemption from his share of common burden must justify his claim that the legislature intended to exempt him by unmistakable terms. For exemptions from taxation are not favored in law, nor are they presumed. They must be expressed in the clearest and most unambiguous language and not left to mere implications. It has been held that "exemptions are never presumed, the burden is on the claimant to establish clearly his right to exemption and cannot be made out of inference or implications but must be laid beyond reasonable doubt". In other words, since taxation is the rule and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms."*

Hence, **ASSOCIATION OF CATEEL MARYKNOLLERS (ACMI), INC.** shall be treated as an ordinary corporation subject to regular corporate income tax and the applicable internal revenue taxes imposed by the Tax Code of 1997, as amended.

Moreover, Section 105 of the Tax Code of 1997 provides that any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties,

renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of the same Code.

The phrase "in the course of trade or business" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

Accordingly, if **ASSOCIATION OF CATEEL MARYKNOLLERS (ACMI), INC.** is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, in general, it shall be liable for VAT.

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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