REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution;
Section 30 of the National Internal Revenue Code of 1997, as amended;
RMO No. 44-2016; RMC No. 51-2014
BIR Ruling No. 564-18
SH30-0166-2020
FEB 07 2020

PHILIPPINE ADVENT COLLEGE, INC.
Sindangan, Zambaonga Del Norte 7112

Attention: PIO M. CERNAL Ed.D.
President

Gentlemen:

This refers to your letter dated March 24, 2017 applying on behalf of **PHILIPPINE ADVENT COLLEGE, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (H) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that PHILIPPINE ADVENT COLLEGE, INC. with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated January 01, 2008, is a non-stock, non-profit corporation 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[1] for which the corporation was incorporated are:

a) To organize, establish, maintain and conduct a progressive institution of learning of a high academic standing which will emphasize cultural development, moral character and scientific research and, to this end, operate colleges and schools giving elementary, secondary, technical/vocational/skills courses, modular courses, certificate programs, special courses, collegiate and post-graduate courses and as an assessment center in accordance with up-to-date and modern educational theories and methods;

b) To offer online courses, international studies and E-courses;

c) To organize, establish and maintain branches in any province, city or municipality of the Philippines;

[1] Second Provision of the Amended Articles of Incorporation dated February 23, 2017.

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d) To purchase, acquire, hold, sell, lease, exchange, mortgage or otherwise deal in real and personal property and to build, acquire, lease, purchase, mortgage buildings and offices as may be necessary or useful to carry out the objects and purposes of this Corporation; and

e) To organize, operate, and maintain dormitories, foundations, stores, printing and publishing establishments, laboratories, hotels, restaurants/cafeteria, agricultural and industrial projects, or otherwise engage in any enterprise or do such things connected with the growth and development of the school which may be, directly or indirectly, incidental or conducive to the attainment of the above objects or any of them respectively.

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

> *"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)

In relation thereto, Section 30 (H) of the National Internal Revenue Code (NIRC) 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*
>
> *(H) A* ***nonstock and nonprofit*** *educational institution;*
>
> *xxx xxx xxx"* (Emphasis supplied)

"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 NIRC of 1997, as amended, its earnings 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*

In the submitted documents of PHILIPPINE ADVENT COLLEGE, INC., it was disclosed that members of the Board of Trustees are entitled to Honorarium. The Certification by the

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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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Treasurer[4] dated January 18, 2019 states that *"the members of the Board of Trustees received only the amount of ₱ per member as honorarium that took place twice for the Academic Year 2017-2018 with a total of ₱ ."*

The giving of honoraria to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of PHILIPPINE ADVENT COLLEGE, INC. This is a form of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. This act violates 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, PHILIPPINE ADVENT COLLEGE, INC. cannot be qualified as a non-stock, non-profit corporation under Section 30 (H) of the NIRC 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."*[6] 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.*[7]*". **(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of PHILIPPINE ADVENT COLLEGE, INC. to be exempted from income tax on its income under Section 30 (H) of the NIRC of 1997, as amended, is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **PHILIPPINE ADVENT COLLEGE, 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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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Copy Furnished:

Revenue Region No. 15 – Zamboanga City
Attn: Revenue District Office No. 91 – Dipolog City, Zamboanga del Norte

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[4] Treasurer Maricel R. Macias dated January 18, 2019.
[5] As stated in 2.2 of the Certification by the Treasurer.
[6] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
[7] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].