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

Section 30 (E) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14
BIR Ruling No. 466-2014
S30E- 0178-2020
FEB 07 2020

FICCO COMMUNITY OUTREACH FOUNDATION, INC.
Corrales-Fernandez Sts., Cagayan De Oro City 9000

Attention : MILCAH R. BACLAYO
FICOO Foundation Staff

Madam:

This refers to your letter dated February 15, 2018 applying on behalf of **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended, which was forwarded to this Office by Revenue Region No. 16, Cagayan de Oro City, dated May 22, 2018.

It is represented that **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated June April 24, 2012, 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. ; and that the purposes for which the association was incorporated are:

1. *To provide, engage in and undertake various community-related services;*
2. *To set-up a scholarship program to financially deserving college and post-graduate students including enhancement for technical skilled persons;*
3. *To institute programs that will empower and build capacity of cooperatives, cooperative banks, micro-financing institutions, and other Non-Government Organizations;*
4. *To institute or support programs that will protect and preserve the environment and other services that will promote the holistic well-being of the community especially in areas where First Community Cooperative operates;*
5. *To engage in resource-generating ventures to support and/or finance community related services;*
6. *To acquire real estate, machineries, or any other personal property that will be used to achieve the social-responsibility-promoting programs of the Foundation;*
7. *To accept donations and grant-in-aid in order to finance its services among other sources;*

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 corporations/associations/ organizations that are exempt from income tax in respect to income received by them as such. Section 30 (E) 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:*

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xxx xxx xxx

(E) Nonstock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans, no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;"

xxx xxx xxx"

"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*".[1] "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*".[2]

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 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:

xxx xxx xxx

3. The provision of welfare aid and financial assistance to its member; xxx.

The submitted Financial Statements of **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** show that most of its income came from the donations made by First Community Cooperative (FICCO). **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** then would plow back to FICCO some of the amounts received as donations for rice trading ventures in return for shares in the profits thereof at the end of each cropping seasons.

Section 30(E) of the National Internal Revenue Code of 1997, as amended, requires that the operation of a charitable institution shall be "*organized and exclusively for charity*". However, this requirement is wanting in this case since the funds of the foundation are being invested in a profit-oriented activity and not exclusively for charitable purposes. Moreover, lending of funds to FICCO Branches for rice trading ventures in return for profits is a form of financial assistance/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, **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (E) 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.*"[3] 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.*"[4] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

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[1] Section 87, Corporation Code
[2] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012
[3] Ibid.
[4] 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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In view of the foregoing, the request of **FICCO COMMUNITY OUTREACH FOUNDATION, INC.** to be exempted from income tax on its income as a Section 30 (E) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **FICCO COMMUNITY OUTREACH FOUNDATION, 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. 8 – Makati City
Attention: Revenue District Office No. 49 – North Makati

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
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