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

Section 30 (F) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14
BIR Ruling No. 466-2014
S30F- 0181-2020
FEB 07 2020

CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.
Corporal Cruz St., cor. E. Rodriguez Ave.,
Bagong Ilog, Pasig City 1604

Attention: **VERALYNN A. JOROMO**
Finance/Treasury Manager

Gentlemen:

This refers to your letter, dated July 26, 2017, applying on behalf of **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (F) of the National Internal Revenue Code (NIRC) of 1997, as amended, which was forwarded to this Office by Revenue Region No. 7, Quezon City, through 4th Indorsement, dated September 20, 2017.

It is represented that **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated December 13, 1996, 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[1] for which the association was incorporated are:

1. *To promote or support the raising and safeguarding of the quality and technical standards of cement products for the benefit of the public;*
2. *To organize and participate in exhibits, trade fairs and conferences for the promotion and public awareness of the industry and otherwise engage in the technical promotion of cement products and industry as a whole;*
3. *To promote safety, corporate governance and environmental protection practices in the industry and the good reputation of the industry in general;*
4. *To advocate legislation or other measures or proceedings in order to foster the development and growth of the industry;*
5. *To participate in administrative and judicial proceedings affecting the industry as a whole;*
6. *To share general and overall economic information as may be allowed by law;*
7. *To cooperate with relevant government and non-government authorities, institutions and associations; and*
8. *To do and engage in all acts as may be necessary, advisable or incidental thereto, all within the bounds of law and good corporate governance.*

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[1] Fourth, Amended Articles of Incorporation.

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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 (F) 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*
>
> *(F) Business league, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which insures to the benefit of any private stock holder, or individual;"*
>
> *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*".[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, 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.*

Article Seven (7) of 4th Amended Articles of Incorporation of **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.**, states that:

> *"The Trade Association shall be governed by Trustees who shall not receive compensation for the discharge of their duties as Trustees, but only reasonable per diems, as may be determined by majority of the Board of Trustees and ratified by majority of the members"*

The giving of per diem to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) 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, **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (F) 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.*"[4] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

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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
[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 **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) INC.** to be exempted from income tax on its income as a Section 30 (F) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **CEMENT MANUFACTURERS ASSOCIATION OF THE PHILIPPINES (CEMAP) 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. 7 – Quezon City
Attention: Revenue District Office No. 043 – Pasig City

Philippine Council for NGO Certification (PCNC) – 6/F SCC Bldg. CFA-MA Compound, 4427 Interior Old Sta. Mesa Rd., Sta Mesa, 1016, Manila, Philippines