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- 0192-2020
FEB 12 2020

KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, INC.
DepEd Compound, Alunan Ave., Zone IV
Koronadal City 9506, South Cotabato

Attention: **PILAR B. RAMOS**
BOT - Clerk

Gentlemen:

This refers to your letter dated May 16, 2017 applying on behalf of **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, 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. 18, Koronadal City, dated June 16, 2017.

It is represented that **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated August 27, 2015, 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. *Advance the cause of education as an agency for Philippine nationalism.*
2. *Keep its members in close contact to association.*
3. *Protect and help its members.*
4. *Improve their economic welfare and social well-being.*
5. *Protect the rights and interest of members and keep them aware of their rights, privileges and obligations.*
6. *Acquire, own manage, sell and dispose, mortgage, lease real or personal properties useful promotion and welfare of association.*
7. *Exercise such other corporate power as maybe provided by-laws.*

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:*

[1] Articles of Incorporation adopted on February 16, 2010.

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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*".[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 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 **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, INC.**, it was disclosed that Board of Trustees are entitled to honorarium/incentives. The Sworn Certification dated April 11, 2016, executed by the Treasurer of **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, INC.,** Susan S. Alagos, states that:

> *"that this association does not spend for payment of compensation, salaries and other emoluments of the Board of trustees, they shall serve the association without compensation, however as far as practicable, they may be reimbursed for actual and necessary expenses incurred by them for activities related to the Association in Section XI of Article VII of the By-Laws. In addition, availability of funds to the association grants honorarium/incentives to the members of the Board of Trustees and other officers."*

The giving of honorarium/incentives to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, 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, **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, 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."* [4] Thus, "*statutes granting tax exemptions are construed* ***strictissimi juris*** *against the taxpayer and liberally in favor of 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
[4] Ibid.

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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."[5] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, 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, **KASAMAHAN NG MGA PUBLIKONG GURO AT KAWANI NG SOUTH COTABATO, 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

032725

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COPY FURNISHED:

REVENUE REGION NO. 18 – Koronadal City
Attention: Revenue District Office No. 111 – Koronadal City

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound,
4427 Interior Old Sta. Mesa Road,
Sta. Mesa 1016 Manila

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[5] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].