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
#194-2016 5-17-2016

MAYPAGKAKAISA RURAL WATERWORKS AND SANITATION SYSTEM ASSOCIATION (MAYRUWASA), INC.
Zone 4-1, Purok Maypagkakaisa, Labangal,
General Santos City 9500

Attention: **Gregoria R. Ocba**
President/Chairman

Madam:

This refers to your letter dated August 25, 2011 duly indorsed by Revenue District Office No. 110-General Santos City through 1st Indorsement dated October 10, 2011, requesting a certificate of tax exemption.

It is represented that **MAYPAGKAKAISA RURAL WATERWORKS AND SANITATION SYSTEM ASSOCIATION (MAYRUWASA), INC.** with Taxpayer's Identification No. organized as a non-stock, non-profit corporation registered with the Securities and Exchange Commission (SEC) under Registration No. dated July 21, 2011; and that the purposes for which it was incorporated are the following:

1) *To provide members with adequate potable water for domestic use at reasonable cost, for maintenance purposes;*
2) *To serve as a catalyst in the provision of household dwellings with sanitary method of excreta disposal;*
3) *To provide other sanitary facilities and services to attain long lasting health and improve community living environment;*
4) *To extend services to all family member of the association;*
5) *To do and perform all other acts and things, and to exercise any other powers which may be necessary, convenient and appropriate to accomplish the purpose for which the association is organized.*

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

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1) Certified true copy of the BIR Certificate of Registration;
2) Certified true copy of the Corporation's Certificate of Incorporation;
3) Certified true copy of the Corporation's By-Laws;
4) Affidavit of Loss; and
5) A sworn statement dated August 14, 2013 affirming that there has been no changes in the Articles of Incorporation.

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.

Notwithstanding that the Articles of Incorporation states that the **MAYPAGKAKAISA RURAL WATERWORKS AND SANITATION SYSTEM ASSOCIATION (MAYRUWASA), INC.** is a non-stock, non-profit corporation, it has to prove that it is really a corporation organized and operated as contemplated under Section 30 of the Tax Code of 1997, as amended.

Being registered as a non-stock and non-profit corporation does not, by this reason alone, completely exempt an institution from tax. *(Commissioner of Internal Revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 & G.R. No. 195960, 26 September 2012)*

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, **MAYPAGKAKAISA RURAL WATERWORKS AND SANITATION SYSTEM ASSOCIATION (MAYRUWASA), 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.

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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 **MAYPAGKAKAISA RURAL WATERWORKS AND SANITATION SYSTEM ASSOCIATION (MAYRUWASA), 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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