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

Section 30 (H) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14
BIR Ruling No. 466-2014
SH30-0194-2020
FEB 12 2020

DOM GERALDO CHILDREN'S CENTER, INC.
Salaban, Amadeo, Cavite 4119

Attention: **SR. FLAVIANA F. CABRERA, MC**
School Directress

Madam:

This refers to your letter dated September 15, 2017, applying on behalf of **DOM GERALDO CHILDREN'S CENTER, 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 **DOM GERALDO CHILDREN'S CENTER, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated February 16, 2005 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 establish and operate an educational institution or learning center which shall provide courses of study in Kindergarten I, Kindergarten II, Elementary Levels (Grades I, II, III) subject to the laws of the Philippines;*
2. *To receive tuitions and miscellaneous fees, accept donations, endowments, grants, legacies and instruments/devices conformably with existing applicable statutes;*

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 (H) 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*
> *(H) A nonstock and nonprofit educational institution;"*
> *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

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[1] Amended Articles of Incorporation adopted on January 31, 2018.
[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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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 **DOM GERALDO CHILDREN'S CENTER, INC.,** it was disclosed that the members of the Board of Trustees are entitled to annual compensation. Treasurer's Certification of **DOM GERALDO CHILDREN'S CENTER, INC.,** states that:

"This is to certify that the total annual compensation of Directors/Trustees is amounting to Php ".

The giving of compensation to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **DOM GERALDO CHILDREN'S CENTER, 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 **DOM GERALDO CHILDREN'S CENTER, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (H) 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 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 **DOM GERALDO CHILDREN'S CENTER, INC.** to be exempted from income tax on its income as a Section 30 (H) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **DOM GERALDO CHILDREN'S CENTER, 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

032821

K-1-JAC
COPY FURNISHED:

REVENUE REGION NO. 9A – Cavite
Attention: Revenue District Office No. 54A – Cavite

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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[4] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
[5] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].