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
#222-2018
2-20-2018

PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, INC.
P-6 Poblacion, San Jose
Dinagat Islands 8412

Attention: **ALAN I B. ECLEO**
Executive Vice President
Vice Chairman, Board of Trustees

Gentlemen:

This refers to your letter dated August 24, 2016 applying in behalf of **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, 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. 17, Butuan City, through 2nd Indorsement dated December 02, 2016.

It is represented that **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated April 08, 1997, 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 national and international peace and unity;*

   a. *Preach and practice the virtue of benevolence by being charitable, giving voluntary, helping generously, serving faithfully, without discrimination or distinction as to race, religion or nationality.*

   b. *Work for mutual friendly relationship with all nations that uphold the true essence and principles of democracy, as well as maintain harmonious relations with all religions, societies or associations in the country and abroad.*

2. *To establish an association of brotherhood with sound governance and a polity that could help attain and maintain free, orderly, honest and good government consistent with the country's constitution of the Republic of the Philippines;*

   a. *Fulfill the need of establishing community centers such as; chapter and sub-chapter offices or social halls for the recreational, social, educational, fraternal and other lawful purposes toward quality citizenry of the members in the country and abroad.*

1 First Amended Article of

b. Establish regional management and administrative offices that would support its operation and implementation of missionary programs and services that would contribute to the nationwide development programs of the government.

3. *To institute measures directed towards the upliftment of the socio-economic conditions of the members for quality life;*

   a. Establish institutional mechanisms for the provision and delivery of initiated programs and services that would uplift the cultural, social, moral and spiritual condition of the members;
   b. Initiate economic enterprises and business that would generate income to support the projects, programs and services for the upliftment of the economic status of the members.

4. *To carry out the objectives of the association by;*

   a. Soliciting initiation fees, dues, donations, pledges and other contributions from the members;

   b. Hold, acquire and possess real or personal properties of whatever nature or kind, and to do or perform relative actions, transactions, or matters necessary in carrying out its aims and purposes;

   c. The association may also acquire grants and donations from the local and foreign developmental charitable institutions.

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:*
>
> *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, 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 **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, INC.**, it was disclosed that some of Board of Trustees are entitled to Honoraria and Incentives. Treasurer's Certification par. 3 by **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, INC.** General Treasurer Alvin B. Dela Cruz, dated July 28, 2016, states that:

> *"3. That the amount of Two Million Four Hundred Fifty Six Thousand Eight Hundred Sixty Two Pesos only (₱2,456,862.00) was released and given as Honoraria and Incentives to other Board of Trustees, officers and other Executive Officers of the Association;"*

The giving of honoraria and incentives to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, 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, **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, 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 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 **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, 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, **PHILIPPINE BENEVOLENT MISSIONARIES ASSOCIATION, 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. 17 – Butuan City
Attention: Revenue District Office No. 105 – BIR Bldg., Brgy. Luna, Surigao City

[4] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].