REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 30 of the National Internal Revenue Code of 1997, as amended
BIR Ruling No. 001-17 BIR Ruling No. 369-15
SH-0227-2020
MAY 19 2020

OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.
Brgy. Polo, Mauban,
Quezon 4330

Attention: ROY D. MORILES
President

Gentlemen:

This refers to your letter dated May 22, 2018 requesting on behalf of **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** for the issuance of a certificate of tax exemption enjoyed by non-stock and non-profit educational institution under Section 30 (H) of the Tax Code of 1997, as amended.

It is represented that **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** with Taxpayer's Identification No. (TIN) , is a non-stock, non-profit corporation duly organized and existing under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. dated May 12, 2016; and that the purposes for which the corporation was organized are the following:

1. Provide technical and vocational post-secondary non-degree education in line with the rule of Technical Education and Skills Development Authority.

2. To promote and strengthen TESDA Certification Programs under Philippine TVET Competency Assessment and Certification System (PTCACS) by registering and applying as an Accredited Assessment Center under the rules of the Technical Education and Skills Development Authority.

3. Promote and strengthen quality non-formal and formal education with focus on the Positive Filipino Work Values of the trainees and inculcating the role and obligation of the citizen in social economic development of the community.

4. Provide employable relevant skill needed in local and emerging industries in the province and in the region.

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5. Eradicate or minimize drug addiction by providing the youth worthwhile activities thru NFE.

6. Encourage participation of public and private educational institution by providing research-based information necessary for sound decision making, planning and programming for cost efficient Formal and Non-Formal Education.

7. Contribute to the poverty reduction program of the government.

8. Branch out satellite campuses all throughout the region as per approved by the board of trustees and supported by a documented board resolution.

Provided that the corporation shall not solicit, accept or take investments/placements from the public neither shall it issue investment contracts.

In reply, please be informed that this Office cannot as yet issue the requested ruling/certificate of tax exemption because **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** has to prove by actual operation for at least three (3) years that it is really a corporation/association exempt from income tax under Section 30 (H) of the Tax Code of 1997, as amended. ***(BIR Ruling No. 165-2012 dated March 9, 2012)***

In the meantime, **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** can file the necessary annual information return instead of an income tax return on or before the 15th day of the fourth month following the end of its taxable year as required under Section 24 of Revenue Regulations No. 2-40 dated February 10, 1940 ***(Collector vs. Sinco, G.R. L-9276 dated October 23, 1956)***. Based on such information return, we shall conduct the necessary investigation on the activities undertaken during the period. The letter of exemption shall thereafter be issued depending upon the result of our investigation.

Hence, **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof, which income should be returned for taxation. Likewise, interest income from currency bank deposits and yield or any other monetary benefits from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax: provided, however, that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15%[1] final withholding tax pursuant to Section 27 (D) (1), in relation to Section 57 (A), both of the Tax Code of 1997. Moreover, it is required to file on or before the 15th day of the fourth month following the end of the accounting period a Profit and Loss Statement and Balance Sheet with the Annual Information Return under oath, stating its gross income and expenses incurred during the preceding period and a certificate showing that there has not been any change in its By-laws, Articles of Incorporation, manner of operation and activities as well as sources and disposition of income. ***(BIR Ruling No. 327-2011 dated September 1, 2011)***

[1] Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective January 1, 2018.

It should be understood that **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** shall be constituted as withholding agent of the government if it acts as an employer and its employee receives compensation income subject to the withholding tax under Section 79 (A), Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended, or if it makes income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997, also as implemented by Revenue Regulations No. 2-98, as amended. ***(BIR Ruling No. 146-2011 dated May 12, 2011)***

Under Section 235 of the Tax Code of 1997, any provision of existing general and special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organization or grantees of tax incentives shall be subject to examination by the BIR for purposes of ascertaining compliance with the conditions under which it has been granted tax exemptions or tax incentives, and its tax liabilities, if any.

It is subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which the Association is registered [Revenue Memorandum Circular (RMC) No. 76-2003].

Value-Added Tax/Percentage Tax

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.

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 **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, its revenues derived therefrom shall be subject to the 12% VAT, in case the gross receipts from such sales exceed Three Million Pesos (₱3,000,000.00)[2], or to the 3% percentage tax, if gross receipts do not exceed ₱3,000,000.00.

Notwithstanding that it is incorporated as a non-stock, non-profit organization, its purchase of goods or properties or services and importation of goods shall nevertheless be subject to the 12% VAT pursuant to Sections 106, 107 and 108 of the said Code.

It should be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. However, being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an

[2] Republic Act No. 10963 increased the VAT threshold from ₱1,919,500.00 to ₱3,000,000.00 effective January 1, 2018.

Finally, for purposes of securing a certificate of exemption after the three (3)-year period, **OFFSHORE-ONSHORE INSTITUTE OF TECHNOLOGY, INC.** is required to submit the following documentary requirements pursuant to Section 2 of Revenue Memorandum Order (RMO) 44-2016:

1. Original copy of the application letter for issuance of Tax Exemption Ruling;

2. Certified true copy of the Certificate of Good Standing issued by the Securities and Exchange Commission;

3. SEC Certified true copy of its Articles of Incorporation or latest Amended Articles of Incorporation which must specifically include and clearly state the following provisions:

   a. That the association is non-stock, non-profit;
   b. That the primary purpose for which the association was created is one of those enumerated under Sec. 30 of the National Internal Revenue Code of 1997, as amended;
   c. That no part of the net income of the association shall inure to the benefit of any its members or private individual;
   d. That the trustees of the non-profit association do not receive any compensation; and
   e. In case of dissolution, its assets shall be distributed to one or more entities formed for the purpose / purposes similar to its own, or to the Philippine government for public purpose. (Revenue Memorandum Circular No. 51-2014)

4. Certified true copy of the By-laws / latest Amended By-laws;

5. Certified true copy of the CERTIFICATE OF REGISTRATION with the BIR;

6. Original copy of the Certification under Oath by the Treasurer of the corporation or association as to the amount of income, compensation, salaries or any emoluments paid by the corporation or association to its trustees, officers and other executive officers;

7. Certified true copies of the Financial Statements of the corporation or association for the last three (3) years;

8. Certified true copy of government recognition/permit/accreditation to operate as an educational institution issued by the Commission on Higher Education (CHED) and/or the Department of Education (DepEd);

9. For TESDA-Accredited Institutions offering Technical and Vocational Educational Training (TVET) Programs/Courses, certified true copies of the TESDA Registrations of the TVET Programs/Courses offered;

10. If the government recognition/permit/accreditation to operate as an education institution was issued more than five (5) years prior to the application for tax exemption/revalidation, an original copy of a current Certificate of Operation/Good Standing, or other equivalent document, issued by the appropriate government agency (i.e., CHED, DepEd, or TESDA) shall be submitted as proof that the non-stock and non-profit educational institution is currently operating as such; and

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document, issued by the appropriate government agency (i.e., CHED, DepEd, or TESDA) shall be submitted as proof that the non-stock and non-profit educational institution is currently operating as such; and

11. Original copy of Certificate of Annual revenues and assets by the Treasurer or his equivalent of the non-stock and non-profit educational institution. In accordance with the guidelines set forth in Section 1.3 of Department of Finance (DOF) Order No. 137-87, the Certificate shall provide a breakdown of the following:

    a. Any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the educational institution was created or organized, including grant of scholarship to deserving students and professorial chairs for the enhancement of professorial course.

    b. Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which it was created or organized, including the upgrading of existing facilities to support the conduct of the above activities.

    c. Any amount in cash or in kind invested in an activity related to the educational purposes for which it was created or organized.

    d. Any amount set aside for a specific project, which must be supported by a Board Resolution issued by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 15th day of the fourth month following the end of its taxable year.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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COPY FURNISHED:

REVENUE REGION NO. 9B – LaQueMar
Attention: Revenue District Office No. 60 – Lucena City, North Quezon