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
SH- 0228-2020
MAY 19 2020

GOLDEN FAITH ACADEMY, INC.
Mt. Arayat Rd., Montevista Heights,
Dolores, Taytay, Rizal 1920

Attention: **CARLOS JOVITO F. CAO**
Corporate Secretary

Gentlemen:

This refers to your letter dated February 08, 2017, applying on behalf of **GOLDEN FAITH ACADEMY, 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 **GOLDEN FAITH ACADEMY, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated December 07, 1998, 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 operate a school or educational institution, initially on the pre-school level and eventually on the elementary, secondary and tertiary levels as may be allowed by law, including a Special Education (SPED) Department.*

2. *To engage in the mission of propagating the proficiency of Filipino pupils in the Mathematics and Science fields of study, among other academic areas.*

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"*

[1] Amended Articles of Incorporation adopted on July 25, 2018.

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"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 **GOLDEN FAITH ACADEMY, INC.**, it was disclosed that members of Board of Trustees are entitled to compensation. The Treasurer's Certification dated February 9, 2017, executed by the Assistant Treasurer, Cristy S. Calo,and attested to by the President and Chief Finance Officer of **GOLDEN FAITH ACADEMY, INC.** states that:

> *"This is to certify that the total amount of compensation and other related income received by its trustees and officers from GOLDEN FAITH ACADEMY, INC. (GFA), a non-stock, non-profit, private Christian school located in Mt. Aryat., Montevista Hts., Taytay, Rizal for the year 2016*

Name	*Designation*	*Total Income*	*Total taxes Paid*
Atty. Carlos S. Cao Jr.	*Trustee*	*₱ 360,000.00*	*₱ 36,000.00 (expanded)*
Nenita F. Cao	*Trustee/Officer*	*987,804.81*	*203,822.66*
Carlos Ibarra Rev F. Cao	*Trustee/Officer*	*783,204.69*	*141,582.59*
Margaret Faith F. Cao	*Trustee*	*None received from GFA*	
Carlos Jovito F. Cao	*Trustee/Officer*	*645,175.00*	*99,296.27*
Lina Mie M. Gervacio	*Officer*	*317,199.81*	*15,779.91*
Nicolas B. Cruz	*Officer*	*130,200.00*	*Tax Exempt*

The giving of compensation to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **GOLDEN FAITH ACADEMY, 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, **GOLDEN FAITH ACADEMY, 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.*

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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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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 **GOLDEN FAITH ACADEMY, 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, **GOLDEN FAITH ACADEMY, 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
033528

K-1-JAC
COPY FURNISHED:

REVENUE REGION NO. 7 – Quezon City
Attention: Revenue District Office No. 46 – Taytay, Rizal

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

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