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
SIL-0229-2020
MAY 19 2020

TORIL (UCCP) LEARNING CENTER, INC.
Rasay St., Toril, Davao City 8000

Attention : ALVIN B. JUMUAD
School Principal

Gentlemen:

This refers to your letter dated June 18, 2018 applying on behalf of **TORIL (UCCP) LEARNING 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, which was forwarded to this Office by Revenue Region No. 19, Davao City, dated June 25, 2018.

It is represented that **TORIL (UCCP) LEARNING CENTER, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated January 01, 1996, 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 for which the association was incorporated is *primarily to operate an educational institution that shall carry out and promote the evangelistic mission and task of the Christian Church to teach, nurture and educate the young and adult, under the regulation and supervision of the Department of Education, Culture and Sports and consistent with the purpose, intents and ministry of the United Church of Christ in the Philippines and its judicatories as expressed in its By-Laws offering nursery, kindergarten and elementary levels.*

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*

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which the corporation was organized".[1] "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*".[2]

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 NIRC 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 **TORIL (UCCP) LEARNING CENTER, INC.**, it was disclosed that Board of Trustees are entitled to per diem. Article VIII of the Amended Articles of Incorporation of **TORIL (UCCP) LEARNING CENTER, INC.**, adopted on November 7, 1993, states that:

> *"Article VIII.* ***Compensation*** *– Members and Officer of the Corporation shall not receive compensation as such except for per diems that may be approved by the Board of Trustees of the Corporation."*

Moreover, Financial Statements also show that it is paying per diem and allowances which was also affirmed by Corporate Treasurer Emmanuel D. Jorgio of **TORIL (UCCP) LEARNING CENTER, INC.**, on the Treasurers' Certification, dated June 22, 2018, states that:

> *"I hereby certify that the following Board of Trustees and Officers, receive their annual Honorarium are as follows:*

Name	***Position***	***Annual Honorarium***
RAMESES S. LOMONGO	*Chairman of the Board*	*₱ 2,000*
REV. ERMILINDA B. VILLEGAS	*Vice Chairman*	*₱ 2,000*
EMMANUEL D. JORGIO	*Treasurer*	*₱ 2,000*
JOHN REY OTON	*Secretary*	*₱ 2,000*
RICARDO T. COMIDOY	*Member*	*₱ 2,000*
MAE M. MALINAO	*Member*	*₱ 2,000*
REV. PURITA O. PAREÑO	*Member*	*₱ 2,000*
PASTOR FE A. SILVA	*Member*	*₱ 2,000*
ROSITA J. ALLENTAJE	*Member*	*₱ 2,000*
RHUEL S. DESABILLA	*Member*	*₱ 2,000*
REV. JAY C. YEBES	*Member*	*₱ 2,000*

The giving of honorarium to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **TORIL (UCCP) LEARNING 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, **TORIL (UCCP) LEARNING CENTER, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (H) of the NIRC of 1997, as amended.

[1] Section 87, Corporation Code
[2] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012

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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.*"[3] 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.*"[4] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **TORIL (UCCP) LEARNING 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, **TORIL (UCCP) LEARNING 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 NIRC 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. 19 – Davao City
Attention: Revenue District Office No. 113 – West Davao

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

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