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-[illegible] 32-2020
MAY 19 2020

MARY HELP OF CHRISTIANS SCHOOL (MINDORO), INC.
Parang, Calapan City, Oriental Mindoro

Attention: **SR. MABEL R. PILAR, FMA**
President

Gentlemen:

This refers to your letter dated August 2, 2018, applying on behalf of **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), 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. 9A-CaBaMiRo, Sto. Tomas, Batangas, thru 2nd Indorsement dated August 31, 2018.

It is represented that **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated April 12, 2004, 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. 2; and that the purposes[1] for which the association was incorporated is to operate an institution of learning, offering pre-elementary, elementary, secondary, collegiate, technical and vocational courses in accordance with up-to-date and modern educational theories and methods as may be authorized by the Department of Education, Culture and Sports, TESDA, Commission of Higher Education and other government regulating agencies which shall be complied with before the school may be allowed to operate.

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] Articles of Incorporation dated September 12, 2002.

"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*

6. *When dissolution and satisfaction of all liabilities, its remaining assets are distributed to its trustees, organizers, officers or members. Its assets must be dedicated to its exempt purposes. Accordingly, its constitutive documents must expressly provide that in the event 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 purposes.*

In the submitted documents of **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), INC.**, it was disclosed that the Board of Trustees are entitled to compensation or fixed salary. Article III, Section 9 of the New By-Laws states that:

> "*9. Board of Trustees will receive compensation or fixed salary for their services.*"

The payment of compensation or fixed salaries to the members of the Board of Trustees, is considered as a distribution of the equity (including the net income) of **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), INC.** These are forms of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. These acts violate 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, **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), 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)***

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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] 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

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In view of the foregoing, the request of **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), 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, **MARY HELP OF CHRISTIANS SCHOOL (MINDORO), 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. 9A – CaBaMiRo
Attention: Revenue District Office No. 63 – Oriental Mindoro

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