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. 051-2014; BIR Ruling No. 466-2014
S30E-0237-2020

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Angels of God's Agape Foundation (AGA Foundation) Inc.
LT 11-A-7 M. Eusebio Ave.,
San Miguel, Pasig City

Attention: **OFELIA ARCHES**
President

Madam:

This refers to your letter dated October 15, 2017 requesting for tax exemption under Section 30 (E) of the National Internal Revenue Code of 1997, as amended.

Documents show that Angels of God's Agape Foundation (AGA Foundation) Inc. with BIR Taxpayer's Identification No. (TIN) and SEC Certificate of Registration No. dated December 2, 2015, is a non-stock, non-profit corporation duly organized and existing under the laws of the Republic of the Philippines. The primary purpose for which the corporation was incorporated is "to follow God's call to love and serve our community by providing opportunities for people to live transformed lives."[1]

In reply, please be informed that Section 30 (E) of the National Internal Revenue Code (NIRC) 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) Non-stock 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***; x x x" (Emphasis supplied)

[1] Second Article, Articles of Incorporation.

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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 the benefit of 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 NIRC, 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 xxx xxx"*

In the submitted By-Laws of the Foundation, paragraph (c) of Item V disclosed that reasonable per diem is being paid to the trustees. It is also provided therein that compensation not exceeding 10% percent of the net income before income tax may be granted to trustees by the vote of the members representing at least a majority of membership at a regular or special meeting. Moreover, in the 2017 Financial Statements, Note No. 12.02 thereof further disclosed that remuneration of the trustees as directors of the Foundation amounted to 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, Angels of God's Agape Foundation (AGA Foundation) Inc. cannot be qualified as a non-stock, non-profit corporation or association 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)***

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

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In view of the foregoing, the request of Angels of God's Agape Foundation (AGA Foundation) Inc. to be exempted from income tax on its income as a Section 30 (E) corporation or association is hereby denied as it failed to prove that it is a non-profit corporation or association. Therefore, it shall be subject to thirty percent (30%) corporate income tax pursuant to Section 27 (A) of 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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