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. 051-14
BIR Ruling No. 466-2014
S30E-0238-2020
MAY 21 2020

CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH[1]
112 Gorordo Ave., Lahug, Cebu City

Attention: **PASTOR JOMEL S. FERNANDEZ**
President

Gentlemen:

This refers to your letter dated February 20, 2018, requesting on behalf of **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated January 28, 1965, 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[2] for which the association was incorporated *is for teaching people of all nations the Commandments of God and the everlasting Gospel of Jesus Christ, in the Central Philippine Union Conference territory comprising the following islands: Samar, Leyte, Biliran, Bohol, Cebu, Negros, Siquijor, Masbate, Panay, Guimaras, Romblon and all outlaying islands, and islets within the Central Philippines, by all such instrumentalities, agencies, means, and methods allowed by law.*

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 (E) 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*
>
> *(E) Nonstock 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*

[1] Formerly: Central Philippine Union Mission of Seventh-Day Adventist Church
Formerly: Central Philippine Union Mission Corporation of Seventh-Day Adventists
[2] Per Amended Articles of Incorporation adopted on October 30, 2013

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> *to or inure to the benefit of any member, organizer, officer or any specific person;"*
>
> *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 which the corporation was organized*".[3] "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*".[4]

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.*

In the submitted documents of **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH**, it was disclosed that Board of Trustees are entitled to per diems. The Sworn Certification dated February 21, 2018 executed by the Treasurer of **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH,** Genitho A. Suniega,states that:

> *"Members of the Board of Trustees who are not active workers/employees of the church do not receive any compensation, **except per diems**, fare refunds during official meetings."*

The giving of per diem to the members of Board of Trustees is considered a distribution of the equity (including the net income) of **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH.** 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, **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH** cannot be qualified as a non-stock, non-profit corporation 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."*[5] *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."*[6] *(BIR Ruling No. 466-2014 dated November 19, 2014)*

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[3] Section 87, Corporation Code
[4] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012
[5] Ibid.
[6] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October

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to be exempted from income tax on its income as a Section 30 (E) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **CENTRAL PHILIPPINE UNION CONFERENCE CORPORATION OF THE SEVENTH-DAY ADVENTIST CHURCH** 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:

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