REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 30(E) of the Tax Code of 1997, as amended
BIR Ruling Nos 115-11, 154-11, 162-11, 172-11 and 179-11
S3DE-0239-2020

MAY 21 2020

JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC.
Provincial Road, Brgy. Cayaoan, Camiling
Tarlac

Attention: **Mr. Reynaldo B. Delos Santos**
Chairman

Gentlemen:

This is to acknowledge receipt of your letter dated May 12, 2014, duly indorsed by Revenue Region No. 4 San Fernando, Pampanga requesting for the issuance of a certificate of tax exemption enjoyed by non-stock non-profit corporation or association organized and operated exclusively for charitable purposes under Section 30(E) of the Tax Code of 1997, as amended.

It is represented that JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. with Taxpayer's Identification No. - , is a non-stock, non-profit corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. ; and that the purpose for which it was incorporated is to administer its affairs, properties and estate".

In reply, please be informed that this Office cannot as yet issue the requested Tax Exemption Ruling because JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. has to prove by actual operation for at least three (3) years that it is really an organization exempt from income tax under Section 30(E) of the Tax Code of 1997, as amended.

JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. can file the necessary annual information return instead of an income tax return on or before the 15th day of the fourth month following the end of its taxable year as required under Section 24 of Revenue Regulations No. 2-40 dated February 10, 1940 (*Collector vs. Sinco, G.R. L-9276 dated October 23, 1956*). Based on such information return, we shall conduct the necessary investigation on the activities undertaken during the period. The letter of exemption shall thereafter be issued depending upon the result of our investigation (*BIR Ruling No. 179-11 dated June 7, 2011*).

JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof, which income should be returned for taxation (*BIR Ruling No. 154-11 dated May 17, 2011*). Likewise, interest income from currency bank deposits and yield or any similar arrangements, royalties derived from sources within the Philippines are subject

to the 20% final withholding tax: that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15%[1] final withholding tax pursuant to Section 27 (D) (1), in relation to Section 57 (A), both of the Tax Code of 1997. Moreover, it is required to file on or before the 15th day of the fourth month following the end of the accounting period and a certificate showing that there has not been any change in its By-laws, Articles of Incorporation, manner of operation and activities as well as sources and disposition of income (*BIR Ruling No. 172-2011 dated May 25, 2011*).

It should be understood that JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. shall be constituted as withholding agent of the government if it acts as an employer and its employee receives compensation income subject to the withholding tax under Section 79 (A), Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended, or if it makes income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997, also as implemented by Revenue Regulations No. 2-98, as amended. (*BIR Ruling No. 165-2011 dated March 23, 2011 and BIR Ruling No. 115-2011 dated April 12, 2011*)

Under Section 235 of the Tax Code of 1997, any provision of existing general and special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organization or grantees of tax incentives shall be subject to examination by the BIR for purposes of ascertaining compliance with the conditions under which it has been granted tax exemptions or tax incentives, and its tax liabilities, if any.

It is subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which the Association is registered (*Revenue Memorandum Circular (RMC) No. 76-2003*).

Section 105 of the Tax Code of 1997 provides that any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of the same Code.

The phrase "in the course of trade or business" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (*irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests*), or government entity.

Accordingly, if JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, in general, it shall be liable to 12% VAT, in case the gross receipts from such sales exceed Three Million Pesos (₱3,000,000.00)[2], or to the 3% percentage tax, if gross receipts do not exceed ₱3,000,000.00.

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[1] Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective Jan. 1, 2018

[2] Republic Act No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective Jan. 1, 2018

STDE - 0239 - 2020
MAY 21 2020

Notwithstanding that it is incorporated as a non-stock, non-profit organization, its purchase of goods or properties or services and importation of goods shall nevertheless be subject to the 12% VAT.

It should be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. However, being an indirect tax, it can be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services.

Being registered as a non-stock and non-profit corporation does not, by this reason alone, completely exempt an institution from tax. *(Commissioner of Internal Revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 & G.R. No. 195960, 26 September 2012)*

Finally, for purposes of securing a Certificate Tax Exemption after the three (3)-year period, JESUS THE KING OF SURVIVOR CHURCH INTERNATIONAL MINISTRY, INC. is required to submit the following documents pursuant to Revenue Memorandum Order No. 20-2013:

a. Original copy of application letter for issuance of Tax Exemption Ruling;

b. Certified true copy of the latest Articles of Incorporation and By-Laws issued by the Securities and Exchange Commission expressly stating the following:
   (i) That no part of the net income shall inure to the benefit of any of its members;
   (ii) The level of administrative expenses on annual basis shall not exceed thirty percent (30%) of the total expenses;
   (iii) That the trustees do not receive any compensation; and
   (iv) In case of dissolution, assets of the corporation shall be transferred to similar institution or to the government;

c. Original copy of Certification under Oath by an executive officer of the corporation or association as to:
   (i) all previous amendments/changes in the Articles of Incorporation and By-Laws,
   (ii) manner of activities, and
   (iii) the sources and disposition of income, if any, of the subject corporation or association. If there are no amendments/changes, the Certification shall state this fact;

d. Certified true copy of the Certificate of Registration with the BIR;

e. Original copy of the Certification under Oath by the Treasurer of the corporation or association as to the amount of income, compensation, salaries or any emoluments paid by the corporation or association to its trustees, officers and other executive officers. *Provided, that*, a corporation sole, which, by its nature, does not have trustees, corporate officers or executive officers need not submit the certification required under this subparagraph.

f. Original copy of the Certification issued by the RDO where the corporation or association is registered that the corporation or association is not the subject

S30E - 0239-2020
MAY 21 2020

of any pending investigation, on-going audit, pending tax assessment, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal; or if thereby be any, the Original copy of the Certification issued by the RDO on the status thereof;

g. Certified true copies of the Income Tax Returns or Annual Information Returns and Financial Statements of the corporation or association for the last three (3) years; and

h. Original copy of a statement under Oath by an executive officer of the corporation or association as to its *modus operandi* which shall include:
   (i) A full description of the past, present, and proposed activities of the corporation or association;
   (ii) A narrative description of anticipated receipts and contemplated expenditures; and
   (iii) A detailed description of all revenues which it seeks to be exempted from income tax.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall become null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

033522

cc: THE REGIONAL DIRECTOR
Revenue Region 4
San Fernando, Pampanga

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