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
S7DE-0241-2020
MAY 21 2020

BUENA HILLS CHRISTIAN FELLOWSHIP, INC.
Buena Hills Christian Fellowship, Buena Hills
Guadalupe, Cebu City 6000

Attention : REV. CRISANTO T. TORIALES
Church Minister/Pastor

Madam:

This refers to your letter dated September 5, 2018, with attachment, which was indorse by Regional Director, Revenue Region No. 13, Cebu City, through 2nd indorsement dated January 22, 2019, applying on behalf of **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.** 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 **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated August 29, 2018, is a non-stock, non-profit association duly organized and existing under the laws of the Republic of the Philippines; and that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. ;

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 to or inure to the benefit of any member, organizer, officer or any specific person;"*
>
> *xxx xxx xxx"*

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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*".[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 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 **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.**, it was disclosed that the members of the Board of Trustees are receiving compensation/salaries. Treasurer's Certification submitted by **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.**, states that:

> *"This is to certify that **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.** ("The Corporation"), a non-stock, non-profit corporation duly organized and existing under and by virtue of Philippine laws that the income, compensation, salaries, honorarium or any emoluments to its trustees, officers and other religious officers has an estimated amount of **One Hundred Twenty Thousand (P120,000.00).**"*

The giving of compensation/salary to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **BUENA HILLS CHRISTIAN FELLOWSHIP, 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, **BUENA HILLS CHRISTIAN FELLOWSHIP, 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.*"[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 **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.** 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, **BUENA HILLS CHRISTIAN FELLOWSHIP, INC.** shall be treated as an ordinary

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[1] Section 87, Corporation Code.

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

[3] Ibid.

[4] 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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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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