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-02 42-2020 MAY 21 2020

RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.
17th Flr., Citibank Center, Paseo de Roxas,
Salcedo Village, Makati City

Attention : MARIE A. ANGELES
Executive Director

Madam:

This refers to your letter dated November 5, 2013, applying on behalf of **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, 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, which was forwarded to this Office by Revenue Region No. 08, Makati City, dated November 10, 2014.

It is represented that **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.** with BIR Taxpaver's Identification No. (TIN) and Certificate of Registration No. dated February 3, 1997, 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 for which the association was incorporated are:

1. *For charitable, educational and scientific purposes within the meaning of Section 26(e) of the Internal Revenue Code of 1986, as amended ("Code").*
2. *To make contributions and grants to corporation, trusts, or community chests, funds or foundations, organized and operated exclusively for charitable, scientific or educational purposes, which engage in whole or in part in educating children, or providing for essential needs of children or carrying on research as to physical and mental diseases and other disorders of children, or the diagnosis, prevention, and treatment thereof, no part of the net earnings of which shall inure to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or including the publishing or distributing of statements, any political campaign on behalf of any candidate for public office, and to make grants to qualified physicians and scientists for the specific purpose of carrying on research as to physical and mental diseases and other disorders of children; and*
3. *To make contributions and grants to the Philippines any province or any political subdivision thereof, for exclusive public purposes.*

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) 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;"

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*".[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 of 1997, 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:

xxx xxx xxx

3. The provision of welfare aid and financial assistance to its member;
4. Donation to any person or entity (except donation made to other entities formed for the purpose/purposes similar to its own); xxx.

The submitted documents of **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.** show that the primary purpose of the corporation is to fund/finance and make contributions/grants to other institution or corporation. Financial Statements also show that most of its income are derived from donations made by Golden Arches Development Corporation (GADC) and from fund-raising. The primary expenses of the corporation are grants given to schools and communities, which was affirmed by **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.'s** Executive Director, Maricar A. Angeles, on her Sworn Statement dated December 13, 2013, which states that:

*"c. **Disposition of Funds**. At least seventy percent (70%) of its fund shall be devoted to undertaking, **directly financing** or assisting charitable, educational, civic and related projects for the benefits of the public welfare, **on its own** or in cooperation with appropriate government or **other private entities** and consistent with its corporate purposes as embodied in its Articles of Incorporation and with the law. xxx"*

Moreover, parts of the income are consistently used to fund tournaments and concerts in return for profits. Donations to other institutions engaged in activities not similar to the foundation's purpose, organizing and financing tournaments, concerts and activities of other private entities are considered distributions of the equity (including the net income) of **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.** These are forms of financial assistance/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

[1] Section 87, Corporation Code

of the net income or assets of the corporation shall inure to the benefit of any individual or specific person. Moreover, the conduct of tournaments for a fee constitutes an activity for profit which is taxable under the last paragraph of Section 30 of the 1997 Tax Code, as amended. Thus, **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, INC.** 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.*"[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 **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, 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, **RONALD MCDONALD HOUSE CHARITIES OF THE PHILIPPINES, 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
033534

K-1-JAC
COPY FURNISHED:

REVENUE REGION NO. 8 – Makati City
Attention: Revenue District Office No. 50 – South Makati

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound, 4427 Interior Old Sta. Mesa Road,
Sta. Mesa 1016 Manila

[3] Ibid.