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;
BIR Ruling No. 466-2014
STRE-0243-2020
MAY 21 2020

ILA.ILASAN BARANGAY WATERWORKS AND SANITATION ASSOCIATION INC.
Sampaguita St., Brgy. Ilaya Ilasan,
Tayabas City, Quezon

Attention: **FERRER CADAVIDO**
Chairman (Bawasa)

Gentlemen:

This refers to your letter dated July 25, 2018, requesting on behalf of **ILA.ILASAN BARANGAY WATERWORKS AND SANITATION ASSOCIATION INC.** for the issuance of a certificate of tax exemption enjoyed by non-stock, non-profit corporation or association pursuant to Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **ILA.ILASAN BARANGAY WATERWORKS AND SANITATION ASSOCIATION INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated February 3, 2010, 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 purpose for which the association was incorporated is *"To own and operate, provide members with adequate supply of water for domestic use"*.

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"*

A common characteristic of the organizations or associations exempt under Section 30 (E) of the Tax Code of 1997, as amended, is that they must not be organized and operated principally for profit. Moreover, the last paragraph of Section 30 of the Tax Code of 1997, as amended, clearly states that the income of whatever kind and character of these organizations

from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax.

Audited Financial Statement shows that the primary sources of its revenues come from metered and unmetered sales of water, membership and meter connection fees, and interest income. Services to paying members/individual or revenues from sales are activities conducted for profits. They cannot be considered any other way. There is a "purpose to make a profit over and above the cost" of services.[1] Such proceeds are being used exclusively for its perpetuation. It appears that this activity is being carried on by **ILA.ILASAN BARANGAY WATERWORKS AND SANITATION ASSOCIATION INC.** in a manner similar to organizations operated for profit. Thus, it is organized and operated principally for profit.

> *The Supreme Court, in case of Commissioner of internal revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 and 195960 dated September 26, 2012, declared:*
>
> > *"A tax exemption is effectively a social subsidy granted by the state because an exempt institution is spared from sharing the expenses of government and yet benefits from them. Tax exemption for charitable institution should therefore be limited to institutions beneficial to the public and those which improve social welfare. A profit-making entity should not be allowed to exploit this subsidy to the detriment of the government and other taxpayers."*

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.*"[2] 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.*"[3] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

IN VIEW OF THE FOREGOING, this Office is of the opinion that **ILA.ILASAN BARANGAY WATERWORKS AND SANITATION ASSOCIATION INC.** does not qualify for exemption under Section 30 (E) of the National Internal Revenue Code of 1997, as amended. It is therefore liable for income taxes imposed under Title II of the National Internal Revenue Code of 1997, as amended.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

033529

K-1-JAC
COPY FURNISHED:

REVENUE REGION NO. 9B – LaQueMar
Attention: Revenue District Office No. 60 – North Quezon

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

---

[1] Jesus Sacred Heart College v. Collector of Internal Revenue.
[2] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012]