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-0244-2020
MAY 21 2020

RIZAL POULTRY AND LIVESTOCK ASSOCIATION, INC.
123 Gen. Luna St., Guitnang Bayan,
San Mateo, Rizal 1820

Attention: **ALEXANDRA S. ANGLIONGTO**
President

Gentlemen:

This refers to your letter dated October 8, 2014, applying on behalf of **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, 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. 7, Quezon City, thru 1st Indorsement dated February 27, 2015.

It is represented that **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. ' ' dated December 6, 1996, is a an 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. *To help promote the poultry business of the members by acting together as a group in the procurement of feed and feed ingredients, poultry and livestock health products, including importation thereof and mixing them, marketing of eggs, chicken, poultry and livestock products and by-products, and in the employment of technical and/or other forms of services.*
2. *To cooperate with the government and other agencies or entities in the encouragement of poultry raising and the production of more food.*
3. *To help spread and disseminate useful information, news, as well as other essential knowledge in connection with poultry production.*
4. *To help conduct experiment in the improvement of the quality and efficiency of poultry feeds, control and prevention of diseases and in the use of poultry products and by-products.*
5. *To cooperate in drafting plans, programs and in the execution of policies intended to carry out the objective of the association.*
6. *To protect the rights and interest of the members and promote more cooperation and understanding among them.*
7. *To do all such other things necessary and related directly or incident to or in furtherance of the objectives or business of the association otherwise, not covered by the foregoing clauses mentioned, including but not limited to assist its members in the importation of feed and feed ingredients, poultry products and machineries and equipment.*
8. *To engage in business of manufacturing of feeds to meet the needs of the poultry business of the members only, poultry raising and meat processing to support the requirements of the members and to market or sell to third*

parties feeds, hatching eggs, chicks and meat products in excess of the buying requirements of the members provided any profit derived therefrom shall not be declared as dividends and shall be utilized solely to defray operating expenses of the association.

9. *To engage in general bonded, warehousing business and, for this purpose, to construct warehouse, bodegas, storage depots and other similar warehousing facilities for the purpose of storing feed, feed ingredients, poultry and livestock health products, the produce of its poultry farms and by-products and such other items as may be necessary in the achievement of the purposes for which the association was formed.*

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"

"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*

6. *When upon dissolution and satisfaction of all liabilities, its remaining assets are distributed to its trustees, organizers, officers or members.*

In the submitted documents of **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, INC.**, it was disclosed that the members of Board of Trustees are entitled to per diems. Article II (Board of Trustees), Sec. 5 of the New By-Laws states that:

"The trustees and the Corporate Secretary of the Association shall receive a per diem for each meeting of the Board attended by them. The amount of such per diem shall be determined by the Board of Trustees."

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[1] Section 87, Corporation Code

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Additionally, Article VIII, Par. c & d, of the By-Laws states that:

> *"c) Assets received and held by the Association subject to limitations permitting their use only for the Association's purposes, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more Associations, societies, or organizations engaged in activities in the Philippines substantially similar to those of the dissolving Association pursuant to a plan of distribution adopted as provided in this Chapter.*
>
> *d) Assets other than those mentioned in the preceding paragraphs, if any, shall be distributed to the members in proportion to their capital contribution."*

The giving of per diems to the members of the Board of Trustees, and the distribution of assets to the members of the association upon its dissolution are considered distributions of the equity (including the net income) of **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, INC.** These are forms of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. These acts violate 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, **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, 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 **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, 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, **RIZAL POULTRY AND LIVESTOCK ASSOCIATION, 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

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REVENUE REGION NO. 07 – Quezon City
Attention: Revenue District Office No. 45 – Marikina City

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