REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 30 (G) of the NIRC of 1997, as amended; RMO No. 20-2013;
BIR Ruling No. 466-2014
S30G - 0246 - 2020
MAY 22 2020

ONE ALGON PLACE FOUNDATION, INC.
Mamatid, Cabuyao 4025 Laguna

Attention: **ANNIE ANASTACIA G. GONZALES**
Corporate Finance Officer

Gentlemen:

This refers to your undated letter, as indorsed by the Regional Director, Revenue Region No. 9B (LaQueMar), San Pablo City, Laguna, through 2nd Indorsement dated December 1, 2017, requesting on behalf of **ONE ALGON PLACE FOUNDATION, INC.** for the issuance of a certificate of tax exemption enjoyed by non-stock, non-profit corporation or association pursuant to Section 30 of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **ONE ALGON PLACE FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) nd Certificate of Registration No. OCN dated June 16, 2004, 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 are:

1. *To provide support for the establishment of centers for the care and rehabilitation of drug abusers, geriatrics, and children and adults with mental illness or disabilities.*

2. *To establish a continuing program for the professional education and skills upgrading of nurses, social workers, guidance counselors and psychiatrists with corresponding accreditation from the Professional Regulatory Commission (PRC).*

3. *To establish a training center that will develop Technical Education and Skills by integrating livelihood, skills enhancement and entrepreneurship in coordination with (TESDA).*

4. *To cooperate with the government's effort to fight for the spread of drug abuse and improve the condition of mentally challenged individuals by providing preventive education through preventive education programs in partnership with DECS and CHED.*

5. *To actively support government's effort in demand reduction of illegal/prohibited drugs.*

6. *To engage in after-care service delivery for persons with mental disabilities linking with government agencies, particularly the Department of Social Welfare and Development (DSWD), in providing such services.*

7. *To receive gifts, grants, legacies, donations, contributions, endowments, and financial aids from any source whatsoever and to make use of them in operating the projects, activities and programs as maybe necessary to carry out the purposes and objectives of the foundation.*

8. *To acquire, lease, or hold, develop, mortgage, pledge, exchange, sell, transfer or otherwise invest, trade or deal in, in any manner permitted by law, real and personal.*

9. *To be able to perform all acts necessary and analogous to the foregoing 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 (G) 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*
>
> *(G) Civic League or organization not organized for profit but operated exclusively for the promotion of social welfare;"*
>
> *xxx xxx xxx"*

A common characteristic of the organizations or associations exempt under Section 30 (G) of the Tax Code of 1997, as amended, is that they must be organized as a non-stock corporation which is exclusively operated for the promotion of social welfare organized, and not for profit. No part of its net income or asset shall belong to or inures to the benefit of any members, organizers, officers or any specific person. 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.

The Audited Financial Statement of **ONE ALGON PLACE FOUNDATION, INC.** shows that the primary sources of its revenues are Residents Contributions, Post Graduate & Related Learning, Facility Rental, Miscellaneous Other Fees, Miscellaneous Fees and other Miscellaneous Fees, as affirmed and defined by **ONE ALGON PLACE FOUNDATION, INC.**'s Treasurer/CFO, Annie Anastacia G. Gonzales, in her Certification dated January 8, 2018, which states that:

"A detailed description of all revenues which it seeks to be exempted from income tax. (All other revenues which are not included in the statement/application shall be subject to income tax)

***Residents Contribution** – This represents contributions collected from residents, while they are in our rehabilitation Psychiatric Care Facility: for their board and lodging, salaries or nurses, caregivers, support staff and Psychiatrist*

***Post graduate & Related Learning** - this represent OJT's minimal fee for them to finish their prescribed no. of hours in their Psychology course as required by their school – fee for the cost of their training and certificates.*

***Facility Rental** - room accommodation for codependents who stay overnight or more who came from as far as Visayas & Mindanao with no relative to stay.*

***Seminar and Training Fees** - the function hall is held for seminars and trainings in per head basis for drug rehabilitation and psychiatric issues, cyber wellness, on how to cope and prevention – charges for accommodation (food)*

***Misc. Other Fees** – charge to residents for their laundry, special menu not covered from their monthly contribution, haircut and transportation*

***Miscellaneous Fees** – program (family therapy) activities, lecture, materials/handouts, occupational therapy*

***Other Misc. Fees** - Medicines, medical supplies & laboratories – as prescribed, charge to residents/patients at cost."*

Such proceeds are being used exclusively for its perpetuation. It appears that this activity is being carried on by **ONE ALGON PLACE FOUNDATION, 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.*"[1] Thus, "*statutes granting tax exemptions are construed **strictissimi juris** against the taxpayer and liberally in favor of the*

[1] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].

S30G - 02[illegible]-2020
MAY 22 2020

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

IN VIEW OF THE FOREGOING, this Office is of the opinion that **ONE ALGON PLACE FOUNDATION, INC.** does not qualify for exemption under Section 30 (G) 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

033533

K-1-JAC

COPY FURNISHED:

REVENUE REGION NO. 9B (LaQueMar) – San Pablo City, Laguna
Attention: Revenue District Office No. 057 – West Laguna (Biñan)

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

[2] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].