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 - 02608 - 2020 MAY 22 2020

HANGOP KABATAAN FOUNDATION, INC.
B. Salera St., Gatas District, Pagadian City 7016

Attention: **ERLINDA B. AURE**
Program Coordinator

Gentlemen:

This refers to your letter dated December 7, 2015, as indorsed by the Regional Director, Revenue Region No. 15, Zamboanga City, dated March 16, 2016, requesting on behalf of **HANGOP KABATAAN 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 **HANGOP KABATAAN FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN , dated September 4, 2000, 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 to give high quality care and appropriate services to the children with intellectual and physical disabilities.

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]

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[1] Section 87, Corporation Code

S30E - 0248-2020
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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

5. Payment of exorbitant or unreasonable compensation to its employees; xxx.

A perusal of the Audited Financial Statements submitted by **HANGOP KABATAAN FOUNDATION, INC.** for Taxable Years 2014, 2013 and 2012 disclosed that more than Fifty percent (50%) of the total revenues are used alone for Salaries of Project Workers, Staff and other benefits. This is a form of exorbitant or unreasonable compensation 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, **HANGOP KABATAAN FOUNDATION, 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, this Office is of the opinion that **HANGOP KABATAAN FOUNDATION, 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

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REVENUE REGION NO. 15 – Zamboanga City
Attention: Revenue District Office No. 32 – Pagadian City

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.