REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Executive Order No. 93
OT - 0257 - 2020

MAY 22 2020

HOSPICIO DE SAN JOSE DE BARILI
Rm. 213 Century Plaza Commercial Complex
Juana Osmeña St., Cebu City

Attention: **Atty. Mariano Y. Cui, Jr.**
Administrator

Gentlemen:

This refers to your request for tax exemption of Hospicio De San Jose De Barili ("Hospicio") pursuant to Act. No. 3239 (An Act Accepting the Offer of Pedro Cui and Benigna Cui to Establish a Home for the Care, Free of Charge, of Invalids, Making the Home So Created a Legal Entity, Vesting It with Certain Powers and Granting It Certain Exemptions, and for Other Purposes) passed on November 27, 1925. Section 5 thereof provides:

> "SEC. 5. All real property of the Home and the revenues. thereof shall be exempt from the payment of the land tax, the income tax, and any other tax now or hereafter established by law."

In reply, please be informed that Executive Order (EO) No. 93[1] was issued on December 17, 1986 by then President, Corazon C. Aquino, withdrawing the above tax exemption granted to Hospicio. Section 1 of EO No. 93 states:

> "Sec. 1. The provisions of any general or special law to the contrary notwithstanding, all tax and duty incentives granted to government and private entities are hereby withdrawn, *except*:
>
> a) those covered by the non-impairment clause of the Constitution;
>
> b) those conferred by effective international agreements to which the Government of the Republic of the Philippines is a signatory;
>
> c) those enjoyed by enterprises registered with:

[1] Withdrawing all tax and duty incentives, subject to certain exceptions, and expanding the powers of the Fiscal Incentives Review Board and for other purposes

(i) the Board of Investments pursuant to Presidential Decree No. 1789, as amended;

(ii) the Export Processing Zone Authority, pursuant to Presidential Decree No. 66, as amended;

(iii)the Philippine Veterans Investment Development Corporation Industrial Authority pursuant to Presidential Decree No. 538, as amended;

d) those enjoyed by the copper mining industry pursuant to the provisions of Letter of Instruction No. 1416;

e) those conferred under the four basic codes namely:

(i) the Tariff and Customs Code, as amended;

(ii) the National Internal Revenue Code, as amended;

(iii) the Local Tax Code, as amended;

(iv) the Real Property Tax Code, as amended;

f) those approved by the President upon the recommendation of the Fiscal Incentives Review Board." (BIR Memo-009-2012 dated May 9, 2012)

It appears that Hospicio is not one of those whose tax exemption has been retained. In view thereof, Hospicio can no longer claim tax exemption under the provisions of Act No. 3239. Tax exemptions must be construed strictly against the taxpayer and liberally in favor of the taxing authority. The burden of proof rests upon the party claiming exemption to prove that it is in fact covered by the exemption so claimed. In case of doubt, non-exemption must be favored. Taxes being the lifeblood of the government that should be collected without unnecessary hindrance, every precaution must be taken not to unduly suppress it.[2] (BIR Memo-009-2012 dated May 9, 2012)

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[2] Republic vs. Caguioa, G.R. No. 168584, October 15, 2007