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 |
| SH30 - 0353-2020 |
| JUN 25 2020 |

**ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.**
Western Poblacion Lopez Jaena Misamis Occidental 7208

**Attention : ELEONORA C. DIGAMON**
*School Head*

Madam:

This refers to your letter dated August 22, 2018 applying on behalf of **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (H) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated August 11, 1998, 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[1] for which the association was incorporated is "*for the operation of Pre-School, Elementary and High School and to give sound, complete and Catholic Education*".

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 (H) 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*
>
> *(H) A nonstock and nonprofit educational institution;"*
>
> *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*".[2] "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*".[3]

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:

---

[1] Amended Articles of Incorporation adopted on August 01, 2015.
[2] Section 87, Corporation Code

1. *The payment of compensation, salaries, or honorarium to its trustees or organizers*; *xxx.*

In the submitted documents of **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.**, it was disclosed that the members of the Board of Trustees are entitled to honorarium. Treasurer's Certification by Corporate Treasurer Rev. Fr. Victor L. Serino of **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.**, dated September 11, 2017 states that:

> *"That the Most Rev. Martin Jumoad, President, Rev. Fr. Victor L. Serino, CFO, Rev. Fr. Mario Magcanam OTR, Mrs. Eleonora C. Digamon, OTR and Mrs. Virginia T. Razonable, COS do not receive any income, salaries or emoluments except the honorarium received during the Board meeting twice a year amounting to Two Thousand Pesos Only (P 2,000.00) in accordance to the Board Resolution No. 01 duly approved by the same."*

The giving of honorarium to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.** This is a form of private inurement 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, **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (H) 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."*[4] *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."*[5] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, INC.** to be exempted from income tax on its income as a Section 30 (H) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **ST. FRANCIS XAVIER HIGH SCHOOL OF LOPEZ JAENA, 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

035482

**K-1-JAC**
*COPY FURNISHED:*

REVENUE REGION NO. 16 – Cagayan De Oro City
Attention: Revenue District Office No. 100 – Ozamis City, Misamis Occidental

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