November 24, 2016

BIR RULING NO. 413-16

Section 101 (A) (3) of the Tax Code of 1997, as amended; Title III, Chapter II, of the same Code

Sorsogon Integrated Educational Center, Inc.
99 Cambulaga, Sorsogon City 4700

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 1, 2016, requesting for a confirmation on the exemption of Donor's Tax relative to the Deed of Donation made and executed by BBB in favor of Sorsogon Integrated Educational Center, Inc. pursuant to Section 101 (A) (3) of the Tax Code of 1997, as amended.

Documents submitted show that BBB (hereinafter referred to as the "Donor"), with Taxpayer's Identification No. (TIN) 000-000-000-000, is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-45406 more particularly described as follows:

> *A parcel of land (Lot 6417-B of the subdivision survey Psd-056216-012730, being a portion of Lot 6417, Cad-192, Sorsogon Cadastre), situated in the barangay of Cambulaga, Municipality of Sorsogon, Province of Sorsogon, containing an area of NINE HUNDRED NINETY ONE (991) SQUARE METERS, more or less.*

that the donee, Sorsogon Integrated Educational Center, Inc., with TIN 000-000-000-000 is a corporation organized and existing in accordance with the laws of the Philippines and registered with the Securities and Exchange Commission (SEC) under Registration No. CN201613495 dated June 24, 2016; that a Deed of Donation was executed on June 20, 2016 whereby the donor donated the aforementioned property in favor of the donee, represented by Maria Cristina Marites GarciaCCC; and that the donee accepted the donation under the conditions set forth as embodied in the Deed of Donation.

Copyright 2020 CD Technologies Asia, Inc.

In reply, please be informed that Sec. 101 (A) (3) of the Tax Code of 1997, as amended provides:

> *"SEC. 101. Exemption of Certain Gifts. — The following gifts or donations shall be exempt from the tax provided for in this Chapter:*
>
> *(A) In the Case of Gifts made by a Resident. —*
>
> xxx xxx xxx
>
> *(3) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited non-governmental organization, trust or philanthropic, organization or research institution or organization: Provided, however, that not more than thirty percent (30%) of said gifts shall be used by such donee for administrative purposes. . ."*
>
> *For the purpose of this exemption, a 'non-profit educational and/or charitable corporation, institution, accredited non-government organization, trust or philanthropic organization and/or research institution or organization' is a school, college or university and/or charitable corporation, accredited nongovernment organization, trust or philanthropic organization and/or research institution or organization, incorporated as a non-stock entity, paying no dividends, governed by trustees who receive no compensation, and devoting all its income, whether student's fees or gifts, donation, subsidies or other forms of philanthropy, to the accomplishment and promotion of the purposes enumerated in its Articles of Incorporation.*
>
> xxx xxx xxx

A perusal of the documents submitted by Sorsogon Integrated Educational Center, Inc. shows that it has not yet been issued a government recognition/permit/accreditation to operate as an educational institution by the Department of Education (DepEd). Hence, inasmuch as Sorsogon Integrated Educational Center, Inc. is not yet operating as an educational institution, it does not fall within the purview of those institutions which may be classified as donee institution pursuant to Section 101 (A) (3) of the Tax Code of 1997, as amended.

Furthermore, it must be stressed that Sorsogon Integrated Educational Center, Inc. has not yet acquired its legal personality at the time the Deed of Donation was executed on June 20, 2016, as it was registered with the SEC only on June 24, 2016.

IN VIEW OF THE FOREGOING, this Office is of the opinion that the donation made in favor of Sorsogon Integrated Educational Center, Inc. is subject to donor's tax imposed under Title III, Chapter II of the Tax Code of 1997, as amended.

Copyright 2020 CD Technologies Asia, Inc.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Copyright 2020 CD Technologies Asia, Inc.