September 27, 2019

BIR RULING NO. 540-19

Section 30 (C) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 064-2016; BIR Ruling No. 466-2014

Asian Carriers Conference Incorporated
9/F PLDT MGO Bldg., Legaspi cor. Dela Rosa Sts.,
Legaspi Village, Makati City, 1229

Attention: *AAA*

Gentlemen :

This refers to your letter dated November 23, 2015, as indorsed by the Regional Director, Revenue Region No. 8, Makati City, dated April 26, 2016, requesting on behalf of **ASIAN CARRIERS CONFERENCE INCORPORATED** 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 **ASIAN CARRIERS CONFERENCE INCORPORATED** with BIR Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 9RC0000431334 dated August 28, 2014, 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. CN201408100; and that the purpose for which the association was incorporated are:

1. *To organize conferences, business meeting forums, exhibitions, seminars and workshops, trade shows, and such other similar events for the information and communications technology industry in the Asian region;*

2. *To encourage and promote the exchange of views and ideas on the state and development of the global information and communications industry with a specific focus in Asia;*

3. *To provide a venue for international telecommunications professionals and global thought leaders to debate current issues and propose*

Copyright 2020 CD Technologies Asia, Inc.

strategies affecting the international telecommunications industry;

4. *To allow members to meet, discuss and do business in relaxed atmosphere;*

5. *To grow and maintain an active roster of members committed to support the purposes of the association and to promote the common goals of its members;*

6. *To organize and establish corporate social responsibility projects with the use, among others, of information and communications technology, to benefit selected beneficiaries; and*

7. *Such other purposes that the members may see fit in the future.*

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 (C) 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
>
> *(C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as fraternal organization operating under lodge system, or mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents";*
>
> xxx xxx xxx

Revenue Memorandum Circular (RMC) No. 64-2016, further clarified that in order for an entity to qualify as a non-stock corporation/association/organization exempt from income tax under Section 30 (C) of the National Internal Revenue Code of 1997, as amended, the entity must be organized as; (i) a beneficiary society, order or association, operating for the exclusive benefit of the members such as fraternal organization operating under lodge system (ii) a mutual aid association (iii) a non-stock corporation organized by employees providing for the payment of life, sickness accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents, and must provide for the payment of life, sick, accident, or other benefits to the members of such society, order or association or their dependents.

"Exclusive" is defined "*as possessed and enjoyed to the exclusion of others;*

Copyright 2020 CD Technologies Asia, Inc.

debarred from participation or enjoyment; and "exclusively" is defined, *"in a manner to exclude; as enjoying a privilege exclusively." x x x The words "dominant use" or "principal use" cannot be substituted for the words "use exclusively" without doing violence to the Constitution and the law. Solely is synonymous with exclusively."* [1] Likewise, to exempt from income taxes, Section 30 (C) of the NIRC of 1997, as amended, requires that the institution be "organized and operated exclusively for the benefits of its member or dependents."

In the documents submitted, there are no showing that **ASIAN CARRIERS CONFERENCE INCORPORATED** is an organization operating under lodge system, or mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents, nor have an established system of benefit payments to its members and their dependents or established system for the payment of life, sickness accident, or other benefits to its members or their dependents. Thus, **ASIAN CARRIERS CONFERENCE INCORPORATED** cannot be qualified as a non-stock, non-profit corporation under Section 30 (C) 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."* [2] *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."* [3] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

IN VIEW OF THE FOREGOING, this Office is of the opinion that **ASIAN CARRIERS CONFERENCE INCORPORATED** does not qualify for exemption under Section 30 (C) of the National Internal Revenue Code, as amended. It is therefore liable for income taxes imposed under Title II of the National Internal Revenue Code, as amended.

Very truly yours,

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

Footnotes

1. *Lung Center of the Philippines vs. Quezon City*, G.R. No. 144104, 29 June 2004, 433 SCRA 119.
2. *CIR vs. St. Luke's Medical Center, Inc*. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].

Copyright 2020 CD Technologies Asia, Inc.

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

Copyright 2020 CD Technologies Asia, Inc.