April 2, 2018

BIR RULING NO. 558-18

Section 30 (E) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14; BIR Ruling No. 466-2014

Ignatian Institute of Religious Education Foundation, Inc.
3/F JCC Bldg., Holy Cross of Davao College
Davao City 8000

Attention: *AAA*

Gentlemen :

This refers to your letter dated December 16, 2013, applying on behalf of **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (E) of the National Internal Revenue Code (NIRC) of 1997, as amended, which was forwarded to this Office by Revenue Region No. 19, Davao City, through 1st Indorsement dated August 28, 2015.

It is represented that **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 2RC0000656762 dated August 25, 2004, 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. CN200319035; and that the purposes [1] for which the association was incorporated are:

1. *The Ignatian Institute of Religious Educational Foundation, Inc. originally established in 1992 as the Theology Division of the Graduate School of Ateneo de Davao University, is dedicated principally to the theological formation of the Laypersons and religious sisters and brothers of the Catholic Archdiocese of Davao. It is also open to the theological formation of other qualified students in so far as its resources permit.*

2. *The academic programs of the institute are designed to lead to government recognized certificates and degrees on the basic tertiary and graduate levels*

Copyright 2020 CD Technologies Asia, Inc.

in consortium with Holy Cross of Davao College.

3. *These programs have as their purpose to form Filipino Christian educators, imbued with Gospel values prepared to witness love, truth, freedom, justice and peace, in solidarity with all peoples and in harmony with creation.*

4. *Such Christian educators are encouraged a) to be committed to the development of a society that is God-centered, person-oriented, patriotic, and environmental friendly and b) to be dedicated to the integrity of life on all levels.*

5. *In the present context of the Southern Philippines, such as commitment involves the formation of Filipino Muslim-Christian dialogue. It entails as well, a readiness to promote the empowerment of the large number of the marginalized Filipinos disadvantaged by the unjust social, political, economic and spiritual structures of the Philippine society today.*

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) Non-stock 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."* [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, as amended, its earnings or assets shall not inure to the benefit of any of its trustees,

Copyright 2020 CD Technologies Asia, Inc.

organizers, officers, members or any specific person. The following are considered "inurements" of such nature:

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

In the submitted documents of **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.**, it was disclosed that Board of Trustees are entitled to Honoraria. Article twelve (12) of the Amended Articles of Incorporation states that:

> *"TWELVE: That all members of the Board of Trustees shall not receive any compensation for their services as members of the Board of Trustees except an honorarium to defray the expenses necessary to attend such meetings of the Board of Trustees or when such members serves as an officer with a fixed compensation."*

_____ Certification by _____ BBB of **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.**, dated February 19, 2014, states that:

> *"That as _____ of Ignatian Institute of Religious Educational Foundation, Inc., I hereby attest and certify that no part of the income, funds, revenues or monies of Ignatian Institute of Religious Education Foundation, Inc. had inured to the benefit of, nor disposed or distributed in favor of any of the members of the Board of Trustees, except an honorarium to defray expenses necessary to attend meetings with the Board of trustees when the member of the Board serves as an officer of Ignatian Institute of Religious Foundation, Inc. with a fixed compensation, as follows:*
>
> *Board of Trustees (10 members)*
> *Honoraria for attending the Board meetings* *Php*_____
>
> *Executive Director*
> *Allowances and Benefits* _____
>
> *Corporate Secretary*
> *Allowances and benefits* _____
>
> *Corporate treasurer*
> *Allowances and benefits* _____"

The giving of honoraria to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.** This is a form of private inurement

Copyright 2020 CD Technologies Asia, Inc.

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, **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION 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."* [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 **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, INC.** to be exempted from income tax on its income as a Section 30 (E) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **IGNATIAN INSTITUTE OF RELIGIOUS EDUCATION FOUNDATION, 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,

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

Footnotes

1. First Amended Articles of Incorporation.
2. Section 87, Corporation Code.
3. *CIR vs. St. Luke's Medical Center, Inc.*, G.R. Nos. 195909 and 195960 dated 26 September 2012.
4. *CIR vs. St. Luke's Medical Center, Inc.* [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
5. *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.

Copyright 2020 CD Technologies Asia, Inc.