April 2, 2018

BIR RULING NO. 562-18

Section 30 (C) of the National Internal Revenue Code of 1997, as amended; RMO No. 20-2013; RMC No. 051-14; BIR Ruling No. 466-2014

Simbag sa Emerhensya Asin Dagdag Paseguro Mutual Benefit Association (SEDP MBA), Inc.
Cathedral Compound, Albay District,
Legazpi City 4500

Attention: *AAA*

Gentlemen :

This refers to your application for the issuance of a Tax Exemption Certificate pursuant to Section 30 (C) of the National Internal Revenue Code of 1997, as amended, which was forwarded by Revenue Region No. 10, Legazpi City, through 2nd Indorsement dated May 05, 2014.

It is represented that **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), INC.** with BIR Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 1RC0000354865 dated March 10, 2009, 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. CN200902141; and that the purposes for which the association was incorporated are:

1. *To extend financial assistance to its members, spouse, siblings, children and parents in the form of death benefits, sickness benefits, provident savings and loan redemption assistance; and*

2. *To ensure continued access to benefits/resources by actively involving the members in the management of the association that will include implementation of policies and procedures geared towards sustainability and improved services.*

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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 a fraternal organization operating under the 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"

"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."* [1] "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."* [2]

Revenue Memorandum Circular (RMC) No. 57-2014 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, 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;*
>
> xxx xxx xxx

In the submitted documents of **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), INC.**, it was disclosed that the Board of Trustees are entitled to gratuity and *per diem*. [3]

The giving of *per diem*, gratuity, and other incentives to the members of the Board

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of Trustees is considered a distribution of the equity (including the net income) of **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), 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, **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), INC.** cannot be qualified as a non-stock, non-profit corporation or association 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.*" [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 **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), INC.** to be exempted from income tax on its income as a Section 30 (C) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **SIMBAG SA EMERHENSYA ASIN DAGDAG PASEGURO MUTUAL BENEFIT ASSOCIATION (SEDP MBA), 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. Section 87, Corporation Code.
2. *CIR vs. St. Luke's Medical Center, Inc.*, G.R. Nos. 195909 and 195960 dated 26 September 2012.
3. Section 4, Article IX, By-Laws; Certification under Oath by BBB, the _____.
4. *CIR vs. St. Luke's Medical Center, Inc.* [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].

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

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