April 4, 2018

BIR RULING NO. 596-18

Section 30 (E) of the NIRC of 1997, as amended; RMO No. 20-2013; BIR Ruling No. 151-2014; BIR Ruling No. 136-2014

Charles W. Selby Memorial Hospital, Inc.
(Formerly Aparri Christian Hospital, Inc.)
Diego Silang St., Punta, Aparri, Cagayan 3515

Attention: *AAA*

Gentlemen :

This refers to your application for the issuance of a Certificate of Tax Exemption pursuant to Section 30 (E) of the National Internal Revenue Code of 1997, as amended, which was forwarded to this Office by Revenue Region No. 03, Tuguegarao City, through a letter dated July 14, 2015.

It is represented that **CHARLES W. SELBY MEMORIAL HOSPITAL, INC.** with BIR Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 4RC0000452903 dated September 26, 2003, is a non-stock, non-profit corporation 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. CN200313782 and with SEC Certificate of Incorporation dated June 20, 2003; and that the purposes [1] for which the corporation was incorporated are, to wit:

> "***CHARLES W. SELBY MEMORIAL HOSPITAL, INC.*** *is an outreach of the church of our Lord and Savior Jesus Christ, it shall be an out-patient and in-patient facility. It shall provide physical, mental, and spiritual care to all who come to it seeking treatment. In the event that it will not be able to meet those needs, it shall provide referrals to those who can better meet the patient's needs. It shall provide high quality holistic health care with a future vision of providing educational and practical opportunities for those studying the Ministry of God's Word and for the students of health care professions. Above all, it shall strive to bring to all those it comes into contact with a knowledge of our Lord and Savior Jesus Christ, for it fully realizes that only through Him will Eternal Healing take*

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place."

In reply, please be informed that pursuant to Revenue Memorandum Order (RMO) No. 20-2013, to qualify as a non-stock, non-profit corporation/association/organization exempt from income tax under Section 30 of the National Internal Revenue Code of 1997, as amended, the Articles of incorporation and/or By-Laws of such association must clearly state the following provisions:

1. *That it is a non-stock, non-profit corporation or association;*

2. *That the purpose for which it was created is one of those enumerated under Section 30 of the National Internal Revenue Code, as amended;*

3. *That no part of the corporation or association's net income shall inure to the benefit of any private individual; and*

4. *That the trustees of the non-profit corporation or association do not receive any compensation or remuneration.*

Also, pursuant to Revenue Memorandum Circular (RMC) No. 51-2014, the constitutive documents of such association must expressly provide that "*in the event of dissolution, its assets shall be distributed to one or more entities formed for the purpose/purposes similar to its own, or to the Philippine government for public purpose.*"

A careful evaluation and verification of the submitted Amended Articles of Incorporation and Amended By-Laws of **CHARLES W. SELBY MEMORIAL HOSPITAL, INC.** revealed that the mandatory provisions that *"no part of the corporation's net income shall inure to the benefit of any private individual"* and *"the trustees of the non-profit corporation do not receive any compensation or remuneration"* were not specifically included and clearly stated. Moreover, the OIC Regional Director Marina C. De Guzman of Revenue Region No. 03, Tuguegarao City, in a letter dated July 14, 2015, addressed to the Commissioner of Internal Revenue, recommended the denial of your application for the issuance of a Certificate of Tax Exemption due to the missing mandatory provisions which should be stated in the Amended Articles of Incorporation and Amended By-Laws of **CHARLES W. SELBY MEMORIAL HOSPITAL, INC.**

In view of the forgoing, **CHARLES W. SELBY MEMORIAL HOSPITAL, INC.** cannot qualify as a non-stock, non-profit corporation/association/organization exempt from income tax under Section 30 (E) of the National Internal Revenue Code of 1997, as amended. Thus, **CHARLES W. SELBY MEMORIAL HOSPITAL, INC.** is subject to the preferential tax rate of ten percent (10%) pursuant to Section 27 (B) of the National Internal Revenue Code of 1997, as amended, which provides that:

"SEC. 27. Rates of Income tax on Domestic Corporations. —

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(B) Proprietary Educational Institutions and Hospitals. —

Proprietary educational institutions and hospitals which are non-profit shall pay a tax of ten percent (10%) on their taxable income except those covered by Subsection (D) hereof: Provided, that if the gross income from ***'unrelated trade, business or other activity'*** *exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term* ***'unrelated trade, business or other activity'*** *means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary, purpose or function. . . ."*

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]

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. Second Provision of the corporation's Amended Articles of Incorporation.
2. Note from the Publisher: Copied verbatim from the official copy. Missing Footnote text.
3. Note from the Publisher: Copied verbatim from the official copy. Missing Footnote text.

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