April 10, 2018

BIR RULING NO. 614-18

Section 34 (H) (1) and (2) (a) of the Tax Code of 1997, as amended; 000-00

AAA

_____

_____

Dear AAA,

This refers to your letter dated January 20, 2015, requesting on behalf of your principal, BBB ("BBB"), for the deduction of the amount of _____ Pesos (P_____) incurred in the construction of the public shower room and toilet facility which was donated by BBB in favor of the Municipality of Isabela, Negros Occidental, pursuant to Section 34 (H) of the 1997 Tax Code, as amended.

Based on the documents submitted, the BBB Family of Isabela Negros Occidental, represented by BBB and CCC, and the Municipality of Isabela, Negros Occidental, entered into a Memorandum of Agreement to Donate dated February 14, 2014, whereby the former agreed to defray, by way of donation in favor of the latter, the cost of labor, equipment, materials and supplies required for the construction of a Multi-Purpose Public Restroom and Shower to be built within the premises of the Isabela Cultural Multi-Purpose Center. The Municipality of Isabela, Negros Occidental, on its part undertook to operate the facilities constructed for the public use, welfare and enjoyment of the residents of the Isabela Town. Pursuant to the Memorandum of Agreement to Donate, BBB and the Municipality of Isabela, Negros Occidental, represented by the Municipal Mayor, Enrique G. Montilla III, executed a Formal Deed of Donation and Acceptance dated December 22, 2014 whereby the former transferred, by way of donation in favor of the latter, the constructed public shower room and toilet facility with a total cost of P_____.

In view of the foregoing, you now request that the amount of P_____ incurred in the construction of the public shower room and toilet facility which was donated in favor of the Municipality of Isabela, Negros Occidental, be recognized/allowed as deduction on the part of BBB.

In reply, please be informed that under Section 34 (H) of the Tax Code of 1997, as amended, donations to the Government, its agencies or political subdivisions are

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deductible from the gross income of the donor, to wit:

> *"Section 34 (H). Charitable and Other Contributions. —*
>
> *(1) In General. — Contributions or gifts actually paid or made within the taxable year to, or for the use of the Government of the Philippines or any of its agencies or any political subdivision thereof exclusively for public purposes, or to accredited domestic corporations or associations organized and operated exclusively for religious, charitable, scientific, youth and sports development, cultural or educational purposes or for the rehabilitation of veterans, or to social welfare institutions, or to nongovernment organizations, in accordance with rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, no part of the net income of which inures to the benefit of any private stockholder or individual in an amount not in excess of ten percent (10%) in the case of an individual, and five percent (5%) in the case of a corporation, of the taxpayer's taxable income derived from trade, business or profession as computed without the benefit of this and the following subparagraphs.*
>
> *(2) Contributions Deductible in Full. — Notwithstanding the provisions of the preceding subparagraph, donations to the following institutions or entities shall be deductible in full:*
>
> > *(a) Donations to the Government. — Donations to the Government of the Philippines or to any of its agencies or political subdivisions, including fully-owned government corporations, exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a National Priority Plan determined by the National Economic and Development Authority (NEDA), in consultation with appropriate government agencies, including its regional development councils and private philanthropic persons and institutions: Provided, That any donation which is made to the Government or to any of its agencies or political subdivisions not in accordance with the said annual priority plan shall be subject to the limitations prescribed in paragraph (1) of this Subsection."* (Emphasis supplied)

Based on the above-cited provision, donations to the Government, its agencies or political subdivisions exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a National Priority Plan determined by the National Economic and Development Authority (NEDA), are deductible in full from the gross income of the donor. On the other hand, donations that are not in accordance with the National Priority Plan are subject to limited deductibility in an amount not exceeding 10% in the case of an individual, and 5% in the case of a corporation, of the taxpayer's taxable net income as computed without the benefit of this deduction.

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In this case, BBB, the donor, failed to show any proof that the donation was exclusively used to finance priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a National Priority Plan. In the absence of such proof, the amount of P_____ incurred in the construction of the public shower room and toilet facility which was donated in favor of the Municipality of Isabela, Negros Occidental shall only be entitled to a limited deductibility in an amount not exceeding 10% of BBB's taxable income derived from trade, business or profession, computed without the benefit of this deduction.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

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

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