April 13, 2018

BIR RULING NO. 690-18

Section 30 of the National Internal Revenue Code of 1997, as amended; BIR Ruling No. 101-2016

Mother Francisca Spirituality Center of San Jose, Inc.
Siena Heights, City of San Jose Del Monte,
Bulacan 3023

Attention: *AAA*

Gentlemen :

This refers to your application on behalf of **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.**, for tax exemption certificate being enjoyed by non-stock, non-profit corporation under Section 30 (E) of the National Internal Revenue Code of 1997, as amended.

It is represented that **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.** with Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 4RC0000274063 dated December 19, 2005, is a non-stock, non-profit religious 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. CN200518304; and that the purposes for which it was incorporated are:

1. *To provide individual and group retreats, spiritual direction, and pastoral counseling; and*

2. *To provide facilities for retreats, gatherings, meetings, workshops & seminars for non-profit groups.*

In reply, please be informed that Section 30 (E) of the National Internal Revenue Code of 1997, as amended, provides:

> *"SECTION 30. Exemptions from Tax on Corporations. — The following organizations shall not be taxed under this Title in respect to income received by them as such:*

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(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

Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code."

Under the above quoted provision, a non-stock and non-profit corporation claiming to be one that is organized and operated exclusively for religious purposes must show that its regular activities are in furtherance of not-for-profit religious purposes and that no part of its net income or assets shall inure to the benefit of any individual, its trustees, organizers or members. While the Articles of Incorporation of **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.** states that the incorporators voluntarily agreed to form a non-stock, non-profit association, it has to prove by actual operation that it is really a corporation contemplated under Section 30 (E) of the National Internal Revenue Code of 1997, as amended. ***(BIR Ruling 101-2016 dated April 5, 2016)***

Evaluation of the documents submitted by **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.** disclose that its enumerated purposes under its Articles of Incorporation do not appear to fall within the contemplation of Section 30 (E) of the National Internal Revenue Code of 1997, as amended. It is primarily engaged in providing a center/venue and conducting retreats, recollections, seminars, conferences and other similar activities. Its regular operations largely relate to the receipt of revenues derived from board and lodging, use of facilities, and other miscellaneous income, and such revenues are being used for its daily operations. It appears that these activities are being carried on in a manner similar to organizations operated for profit and not merely incidental to an exempt religious purposes.

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

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In view of the foregoing, your request for tax exemption on behalf of **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.** as non-stock, non-profit corporation under Section 30 (E) of the National Internal Revenue Code of 1997, as amended, is hereby denied for lack of legal basis. Thus, **MOTHER FRANCISCA SPIRITUALITY CENTER OF SAN JOSE, INC.** shall be treated as an ordinary corporation subject to regular corporate income tax under Section 27 (A) of the National Internal Revenue Code of 1997, as amended, as well as applicable internal revenue taxes imposed by the same Tax Code.

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. *CIR vs. St. Luke's Medical Center, Inc.* [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
2. *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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