April 13, 2018

BIR RULING NO. 691-18

Section 30 (G) of the Tax Code of 1997;
BIR Ruling Nos. 111-2014 & 027-16

Joyful Development, Inc.
156 Larcon, Bongabon, Nueva Ecija

Attention: *AAA*

Gentlemen :

This refers to your undated letter duly indorsed by Revenue Region No. 4-City of San Fernando, Pampanga, requesting for the issuance of a certificate of tax exemption enjoyed by a civic league or organization not organized for profit but operated exclusively for the promotion of social welfare pursuant to Section 30 (G) of the Tax Code of 1997, as amended.

It is represented that **Joyful Development, Inc.** with Taxpayer's Identification No. 000-000-000-000 is a non-stock, non-profit corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. CN201106015; and that the purposes for which it was incorporated are the following:

1. To facilitate formation of community group that will be instrumental in solving community problems towards community development;

2. To engage in microfinance activities towards livelihood/socio-economic development pursuant to Republic Act No. 8425, the Social Reform and Poverty Alleviation Act;

3. To partner with individuals and organizations in advancing community groups, individual members' welfare and general development.

In reply, please be informed that Section 30 (G) provides for exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this

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section is one which operated primarily for the purpose of bringing about civic betterment and social improvements.

A perusal of the documents submitted by Joyful Development, Inc. shows that it is primarily and actively engaged in microfinancing. Audited Financial Statements disclose that the primary source of its revenues come from interest income and services fees from loans. Such proceeds are being used almost exclusively for the operation of its microcredit activities, and not for the exclusive promotion of social welfare. It appears that this activity is being carried on by Joyful Development, Inc. in a manner similar to organizations operated for profit. Thus, it cannot be considered as an organization operated exclusively for the promotion of social welfare.

Organizations that promote social welfare should primarily promote the common good and general welfare of the people of the community as a whole. An organization is not operated exclusively for the promotion of social welfare if its primary activity is carrying on a business with the general public. An organization that is engaged in microfinance cannot be presumed to be a social welfare organization under Section 30 (G) of the Tax Code of 1997, as amended because microfinance is a business activity conducted by organizations operated for profit such as banks. *(BIR Ruling No. 111-14 dated April 21, 2014)*

Along with police power and *eminent domain, taxation is one of the three basic and necessary attributes of sovereignty. Thus, the State cannot be deprived of this most essential power and attribute of* sovereignty by vague implications of law. Rather, being derogatory of sovereignty, the governing principle is that tax exemptions are to be construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority; and he who claims an exemption must be able to justify his claim by the clearest grant of statute.

Tax exemptions must be construed strictly against the taxpayer and liberally in favor of the taxing authority. The burden of proof rests upon the party claiming exemption to prove that it is in fact covered by the exemption so claimed. In case of doubt, non-exemption must be favored. Taxes being the lifeblood of the government that should be collected without unnecessary hindrance, every precaution must be taken not to unduly suppress it.

IN VIEW OF THE FOREGOING, this Office is of the opinion that Joyful Development, Inc. does not qualify for exemption under Section 30 (G) of the NIRC, as amended. It is therefore liable for regular corporate income taxes imposed under Title II of the same Code and other applicable taxes such as Value-Added Tax (VAT) or Percentage Tax.

Very truly yours,

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

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