April 13, 2018

BIR RULING NO. 696-18

Banahaw Parents Association, Inc.
Earth St., Maderal Compound
Brgy. Palola, Lucban, Quezon

Attention: *AAA*

Gentlemen :

This refers to your letter dated December 26, 2013 duly indorsed by Revenue Region No. 9-San Pablo City, requesting for revalidation of certificate of tax exemption enjoyed by an association organized for charitable purposes pursuant to Section 30 of the Tax Code of 1997, as amended.

It is represented that Banahaw Parents Association, 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. 174361; and that the purposes for which it was incorporated are the following:

1) To attain self-reliance among children, families and communities;

2) To establish an enterprise through the CCF (Christian Children's Fund) subsidy provided that the income will be used in implementing its programs and services;

3) To organize and sustain community projects.

In reply, please be informed that Section 30 (E) exempts from income tax non-stock corporations or associations 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.

A common characteristic of the organizations or associations exempt under Section 30 (E) is that they must not be organized and operated principally for profit. Moreover, the last paragraph of Section 30 clearly states that the income of whatever kind and character of these organizations from any of their properties, real or personal, or from

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any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax.

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.

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 should be collected without unnecessary hindrance and every precaution must be taken not to unduly suppress it.

A perusal of the documents submitted by Banahaw Parents Association, Inc. shows that it is primarily engaged in program and services for the development of vulnerable children, youth and parents in our community towards self-reliant. Audited Financial Statements disclose that the primary source of its revenues come from loans receivables, mini-store and services. Such proceeds are being used almost exclusively for its perpetuation. It appears that this activity is being carried on by Banahaw Parents Association, Inc. in a manner similar to organizations operated for profit. Thus, it is organized and operated principally for profit.

An organization is not operated exclusively for *charitable* purposes if its primary activity is carrying on a business with the general public. An organization that is engaged in lending activities, operation of mini-store and other services cannot be presumed to be a charitable organization under Section 30 (E) because it is a business activity *"conducted for profit."*

IN VIEW OF THE FOREGOING, this Office is of the opinion that Banahaw Parents Association, Inc. does not qualify for exemption under Section 30 of the Tax Code of 1997, as amended. It is therefore liable for Income Tax imposed under Title II of the same Code and other applicable taxes such as Value-Added Tax (VAT) or Percentage Tax, as the case may be.

Very truly yours,

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

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