April 16, 2018

BIR RULING NO. 733-18

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Sec. 30 (H) of the NIRC of 1997, as amended; RMO No. 44-2016

Northern Paramedical and Technological College of Panabo, Inc. (NPTC)
(Formerly: Northern Paramedical and Technological School of Panabo, Inc.)
Quezon Street, Panabo City,
Davao del Norte

Attention: *AAA*

Gentlemen :

This refers to your application on behalf of **NORTHERN PARAMEDICAL AND TECHNOLOGICAL COLLEGE OF PANABO, INC. (NPTC)**, for tax exemption certificate being enjoyed by non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended.

It is represented that **NORTHERN PARAMEDICAL AND TECHNOLOGICAL SCHOOL OF COLLEGE, INC. (NPTC)** with Taxpayer's Identification No. (TIN) 000-000-000 and Certificate of Registration No. OCN 96-112-000008 dated January 03, 1996, is a non-stock, non-profit educational institution 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. DNO94-000473; that the purposes for which it was incorporated are:

1. *To establish and operate a private educational institution offering academic, technological, paramedical, technical, vocational and non-formal and all Bachelor of Science Degree Courses as the condition/s may demand from time to time, that may be hereinafter be approved and authorized by the government;*

2. *To acquire or own real estates, buildings, equipment and vehicles and other facilities necessary for the conduct of the business of the corporation;*

3. *To loan or borrow money and otherwise contract indebtedness, secure credit accommodations from government and private agencies for the*

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benefit of the corporation;

4. *To receive gifts, donations and contributions in cash or any kind, in a form of aids or assistance from various domestic and foreign sources subject to the existing laws of the Philippines; and*

5. *To do and perform any act or deed not contrary to law, and to exercise such other powers which may be necessary, convenient and appropriate to accomplish and achieve the purpose of the corporation.*

that it was permitted and granted the following Government Recognitions by the Department of Education (DepEd):

Government Recognition No.	Date issued	Degree/Program
07 s. 2011	June 07, 2011	Sunday High School Program
05 s. 2009	Mar. 03, 2009	Complete Secondary Course

and that it was also permitted and granted the following Certificate of TVET Program Registration issued by the Technical Education and Skills Development Authority (TESDA):

Certificate of TVET Program Registration No.	Date issued	Degree/Program
2011110102033	Apr. 05, 2011	Computer Hardware Servicing NC II

In reply, please be informed that paragraph 3, Section 4, Article XIV of the 1987 Constitution states that:

"*All revenues and assets of* ***non-stock, non-profit educational institutions*** *used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties.*" (Emphasis supplied)

Likewise, Section 30 (H) of the National Internal Revenue Code of 1997, as amended, provides, *viz.*:

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

XXX XXX XXX

(H) A ***non-stock and non-profit*** *educational institution; x x x"* (Emphasis supplied)

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Moreover, there are two requisites in order for an educational institution to be exempt from tax as provided under Revenue Memorandum Order (RMO) No. 44-2016 dated July 25, 2016; to wit:

a) It is a **non-stock, non-profit educational institution**; and

b) Its revenues are actually, directly and exclusively used for educational purposes. (Emphasis supplied)

Under the above quoted provisions, one of the requirements for an educational institution to be exempt from income tax pursuant to the provisions of paragraph 3, Section 4, Article XIV of the 1987 Constitution, in relation to Section 30 (H) of the National Internal Revenue Code of 1997, as amended, and RMO No. 44-2016, is to be organized as a non-stock, non-profit educational institution. However, in the instant case, the submitted Amended Articles of Incorporation of **NORTHERN PARAMEDICAL AND TECHNOLOGICAL SCHOOL OF COLLEGE, INC. (NPTC)** disclosed that its registration with the SEC is only a non-stock corporation. Consequently, it cannot be qualified as a non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended. Therefore, it shall be treated as a proprietary educational institution subject to ten percent (10%) preferential rate pursuant to Section 27 (B) of the National Internal Revenue Code of 1997, as amended.

Please bear in mind that, "*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.*" [1]

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. *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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