April 16, 2018

BIR RULING NO. 734-18

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

Western Masbate Roosevelt College, Inc.
(Formerly: Western Masbate Roosevelt High School, Inc.)
Poblacion Cawayan, Masbate 5400

Attention: *AAA*

Gentlemen :

This refers to your application on behalf of **WESTERN MASBATE ROOSEVELT COLLEGE, INC.**, 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 **WESTERN MASBATE ROOSEVELT COLLEGE, INC.** with Taxpayer's Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN 1RC0000603195 dated January 01, 1997, 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. 19704; that the purpose for which it was incorporated is *to establish and operate an institution of learning for both sexes and to provide instruction therein in arts, sciences and other studies as are prescribed by the Government for elementary, high school and collegiate institutions and to offer such professional, special, vocational and technical courses as conditions may demand from time to time*; and that it was permitted and granted the following Government Recognitions/Permits by the Department of Education (DepEd):

Government Recognition/ Permit No.	Date issued	Degree/Program
070 s. 1973	June 11, 1973	Fourth Year of the Secondary Course (Day) under the 2-2 Plan
190-R-5 s. 1972	July 07, 1972	Fourth Year of the Secondary Course (Day) under the 2-2 Plan

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517 s. 1967	Sept. 20, 1967	Fourth Year of the Secondary Course (Day) under the 2-2 Plan
818 s. 1965	Nov. 06, 1965	Third Year of the Secondary Course (Day) under the 2-2 Plan
324-R-1 s. 1964	July 22, 1964	Second Year of the Secondary Course (Day) under the 2-2 Plan
078 s. 1957	Apr. 25, 1957	First Year of the Secondary Course (Day) under the 2-2 Plan

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)

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 **WESTERN MASBATE ROOSEVELT COLLEGE, INC.** 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.

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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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