May 10, 2018

BIR RULING NO. 802-18

Section 30 (E) of the Tax Code of 1997;
BIR Ruling No. 403-14; BIR Ruling No.
577-12

Kahugpungan Sa Tribung Mamanwa
-Cawilan, Motorpool, San Juan,
Camp Edward, Budlingin
(KATRIMA CAMSACAB), Inc.
Budlingin, Alegria, Surigao del Norte

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 5, 2016, applying on behalf of **KAHUGPUNGAN SA TRIBUNG MAMANWA-CAWILAN, MOTORPOOL, SAN JUAN, CAMP EDWARD, BUDLINGIN (KATRIMA CAMSACAD), INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which was forwarded to this Office by Revenue Region No. 17, Butuan City, dated November 3, 2016.

It is represented that KATRIMA CAMSACAB with Taxpayer's Identification No. 000-000-000-000, [1] 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. CN201622964; and that the purpose for which it was incorporated is to establish strong and working linkages among its members who are indigenous people.

In reply, please be informed that this Office cannot as yet issue the requested ruling/certificate of tax exemption because KATRIMA CAMSACAB has to prove by actual operation for at least three (3) years that it is really an organization exempt from income tax under Section 30 (C) of the Tax Code of 1997, as amended.

KATRIMA CAMSACAB shall file the necessary annual information return instead of an income tax return on or before the 15th day of the fourth month following the end of its taxable year as required under Section 24 of Revenue Regulations No. 2-40

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dated February 10, 1940 (*Collector vs. Sinco*, G.R. L-9276 dated October 23, 1956). Based on such information return, we shall conduct the necessary investigation on the activities undertaken during the period. The letter of exemption shall thereafter be issued depending upon the result of our investigation.

Hence, KATRIMA CAMSACAB is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof, which income should be returned for taxation. Likewise, interest income from currency bank deposits and yield or any other monetary benefits from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax: provided, however, that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15% [2] final withholding tax pursuant to Section 27 (D) (1), in relation to Section 57 (A), both of the Tax Code of 1997. Moreover, it is required to file on or before the 15th day of the fourth month following the end of the accounting period a Profit and Loss Statement and Balance Sheet with the Annual Information Return under oath, stating its gross income and expenses incurred during the preceding period and a certificate showing that there has not been any change in its By-laws, Articles of Incorporation, manner of operation and activities as well as sources and disposition of income.

It should be understood that the said exempt organization shall be constituted as withholding agent of the government if it acts as an employer and its employee receives compensation income subject to the withholding tax under Section 79 (A), Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, as amended, or if it makes income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the Tax Code of 1997, also as implemented by Revenue Regulations No. 2-98, as amended. *(BIR Ruling No. 403-14 dated October 20, 2014; BIR Ruling No. 577-2012 dated September 9, 2012 and BIR Ruling No. 536-2012 dated August 8, 2012)*

Under Section 235 of the Tax Code of 1997, any provision of existing general and special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organization or grantees of tax incentives shall be subject to examination by the BIR for purposes of ascertaining compliance with the conditions under which it has been granted tax exemptions or tax incentives, and its tax liabilities, if any.

It is subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which the Association is registered [Revenue Memorandum Circular (RMC) No. 76-2003].

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Finally, for purposes of securing a tax exemption ruling after the three (3)-year period, KATRIMA CAMSACAB shall file its application for Tax Exemption with the Revenue District Office (RDO) where it is registered and is required to submit the following documents pursuant to Revenue Memorandum Order No. 20-2013:

a. Original copy of application letter for issuance of Tax Exemption Ruling. The letter shall cite the particular paragraph of Section 30 of the NIRC, as amended, under which the application for exemption/revalidation is being based;

b. Certified true copy of the latest Articles of Incorporation and By-Laws issued by the Securities and Exchange Commission;

c. Original copy of Certification under Oath by an executive officer of the corporation or association as to:

   (i) all previous amendments/changes in the Articles of Incorporation and By-Laws,

   (ii) manner of activities, and *

e. * Original copy of the Certification under Oath by the Treasurer of the corporation or association as to the amount of income, compensation, salaries or any emoluments paid by the corporation or association to its trustees, officers and other executive officers. Provided, that, a corporation sole, which, by its nature, does not have trustees, corporate officers or executive officers need not submit the certification required under this subparagraph;

f. Original copy of the Certification issued by the RDO where the corporation or association is registered that the corporation or association is not the subject of any pending investigation, on-going audit, pending tax assessment, administrative protest, claim for refund or issuance of tax credit certificate, collection proceedings, or a judicial appeal; or if there be any, the original copy of the Certification issued by the RDO on the status thereof;

g. Certified true copies of the Income Tax Returns or Annual Information Returns and Financial Statements of the corporation or association for the last three (3) years; and

h. Original copy of a statement under Oath by an executive officer of the corporation or association as to its *modus operandi* which shall include:

   i. A full description of the past, present, and proposed activities of

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the corporation or association;

ii. A narrative description of anticipated receipts and contemplated expenditures; and

iii. A detailed description of all revenues which it seeks to be exempted from income tax. All other revenues which are not included in the statement/application shall be subject to income tax.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. Per Certificate of Registration with the BIR dated Sept. 9, 2016.
2. Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective Jan. 1, 2018.

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