REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

July 22, 2013

REVENUE MEMORANDUM ORDER NO. 20-2013

SUBJECT : Prescribing the Policies and Guidelines in the Issuance of Tax Exemption Rulings to Qualified Non-Stock, Non-Profit Corporations and Associations Under Section 30 of the National Internal Revenue Code of 1997, As Amended

TO : All Revenue Officials and Personnel and Others Concerned

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SECTION 1. Background. — Under Section 30 of the National Internal Revenue Code of 1997 (NIRC), as amended, certain corporations and associations are exempt from paying on income received by them as such. The Bureau of Internal Revenue (Bureau) accords tax-exempt status to these corporations and associations by way of confirmatory BIR rulings or certificates of tax exemption which are issued after due evaluation of documents submitted by said corporations and associations.

By reason of the privilege granted by law, it is important for the Bureau to enhance monitoring of these corporations and associations in order to meet the following objectives:

a. Ensure compliance with the conditions attached to the tax exemption
b. Ascertain the existence of other income derived from non-exempt activities and provide proper tax treatment thereon
c. Enforce the payment of other taxes for which no exemption was granted under Philippine tax laws (e.g., withholding taxes, fringe benefits tax, and documentary stamp tax)
d. Minimize tax leakages arising from inaccurate interpretation of relevant tax laws and administrative issuances

This Order is hereby issued to prescribe policies and guidelines in the processing of tax exemption applications and for the revalidation of tax exemption rulings/certificates of corporations and associations listed under Section 30 of the NIRC, as amended.

SECTION 2. Applications for Tax Exemption and Revalidation.—Corporations and associations enumerated under Section 30 of the NIRC, as amended, **including those which have been issued tax exemption rulings/certificates prior to June 30, 2012,** shall file their respective Applications for Tax Exemption/Revalidation with the Revenue District Office (RDO) where they are registered. Only corporations or associations that are duly qualified under Section 30 of the NIRC, as amended, shall be issued Tax Exemption Rulings.

SECTION 3. General Documentary Requirements. – A corporation or association shall submit the following documents:

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 (iii) the sources and disposition of income, if any, of the subject corporation or association. If there are no amendments/changes, the Certification shall state this fact;

d. Certified true copy of the Certificate of Registration with the BIR;

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 thereby 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 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.

SECTION 4. Additional Requirements for Educational Institutions. — A non-stock and non-profit educational institution under Section 30(H) of the NIRC, as amended, shall submit the following documents in addition to those required under Section 4 hereof:

a. Certified true copy of government recognition/permit/accreditation to operate as an educational institution issued by the Commission on Higher Education (CHED), Department of Education (DepEd), or Technical Education and Skills Development Authority (TESDA);

b. If the government recognition/permit/accreditation to operate as an education institution was issued more than five (5) years prior to the application for tax exemption/revalidation, an original copy of a current Certificate of Operation/Good Standing, or other equivalent document, issued by the appropriate government agency (i.e., CHED, DepEd, or TESDA) shall be submitted as proof that the non-stock and non-profit educational institution is currently operating as such; and

c. Original copy of Certificate of utilization of **annual** revenues and assets by the Treasurer or his equivalent of the non-stock and non-profit educational institution. In accordance with the guidelines set forth in Section 1.3 of Department of Finance (DOF) Order No. 137-87, the Certificate shall provide a breakdown of the following:

   i. Any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the educational institution was created or organized, including grant of scholarship to deserving students and professorial chairs for the enhancement of professional course.
   ii. Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which it was created or organized, including the upgrading of existing facilities to support the conduct of the above activities.
   iii. Any amount in cash or in kind invested in an activity related to the educational purposes for which it was created or organized.
   iv. Any amount set aside for a specific project, which must be supported by a Board Resolution issued by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 15th day of the fourth month following the end of its taxable year.

SECTION 5. General Guidelines in the Evaluation of the Applications for Tax Exemptions/Revalidation. — The Revenue District Officer (RDO) shall:

a. Ascertain whether or not the corporation or association falls under any of the organizations enumerated under Section 30 of the NIRC, as amended, by examining its Articles of Incorporation and By-Laws and other constitutive documents. The Articles of Incorporation must clearly state that:

   i. It is a non-stock, non-profit corporation or association;
   ii. The purpose for which it was created is one of those enumerated under Section 30 of the NIRC, as amended;
   iii. No part of the corporation or association's net income shall inure to the benefit of any private individual; and
   iv. The trustees of the non-profit corporation or association do not receive any compensation or remuneration.

   The corporation or association's constitutive documents shall:

   i. Limit its purpose to those described in Section 30 of the NIRC, as amended;
   ii. Not expressly permit activities that do not further its tax-exempt purposes; and
   iii. Permanently dedicate its assets to its tax-exempt purposes.

   A branch office of a foreign non-stock, non-profit corporation cannot qualify as a tax-exempt corporation under Section 30 of the NIRC, as amended.

b. Determine whether or not the corporation or association is operating as an organization under Section 30 of the NIRC, as amended, by examining its *modus operandi*, financial statements and other relevant documents. The examination must show that:

   i. Its earnings do not inure to the benefit of any private individual;
   ii. It does not operate for the benefit of private interest such as those of its founder or the founder's family; and
   iii. It does not operate for the purpose of conducting a trade or business that is not related to its tax-exempt purpose.

c. Verify the corporation or association's sources of revenues and other transactions to determine which are taxable and non-taxable. Despite its being a tax-exempt institution, it is subject to the corresponding internal revenue taxes imposed under the NIRC, as amended, on its income derived from any of its properties, real or personal, or any activity conducted for profit regardless of the disposition thereof (i.e., rental payment from their building/premises), which income is subject to income tax.

d. Verify whether or not the corporation or association has stop-filer cases, accounts receivable (AR) cases, etc. and require compliance by the corporation or association.

e. Verify whether or not the corporation or association is 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; and determine if the issues involved therein warrant a denial of the application for tax exemption/revalidation.

SECTION 6. Specific Guidelines in the Evaluation of the Application of Corporations or Associations under Section 30(E) of the NIRC, as amended.—

Corporations or associations which apply for tax exemption ruling under Section 30(E) of the NIRC, as amended, must meet all the following requirements:

a. It must be a non-stock corporation or association **organized and operated exclusively** for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans.

b. It should meet the following tests:

   i. Organizational Test -- requires that the corporation or association's constitutive documents exclusively limit its purposes to one or more of those described in paragraph (E) of Section 30 of the NIRC, as amended.

   ii. Operational Test -- mandates that the regular activities of the corporation or association be exclusively devoted to the accomplishment of the purposes specified in paragraph (E) of Section 30 of the NIRC, as amended. A corporation or association fails to meet this test if a substantial part of its operations may be considered "*activities conducted for profit*'.

c. All the net income or assets of the corporation or association must be devoted to its purpose/s and no part of its net income or asset accrues to or benefits any member or specific person. Any profit must be plowed back and must be devoted or used altogether for the furtherance of the purpose for which the corporation or association was organized.

d. It must not be a branch of a foreign non-stock, non-profit corporation.

SECTION 7. Request for Additional Documents. — In the course of review of the application for tax exemption/revalidation, the Bureau may require additional information or documents as the circumstances warrant.

SECTION 8. Procedure. —

a. Upon receipt of the complete documentary requirements (docket) for the application for tax exemption/revalidation, the RDO shall pre-evaluate the same and shall determine whether or not the applicant qualifies as an exempt corporation or association under Section 30 of the NIRC, as amended.

   i. If based on the pre-evaluation, the RDO is of the position that the corporation or association is qualified, he shall prepare a written recommendation stating the factual and legal bases therefor and endorse the docket to the Office of the Regional Director for review. If the Regional Director concurs with the RDO's recommendation, the docket shall be forwarded to the Office of the Assistant Commissioner, Legal Service, Attention: Law Division. Otherwise, the docket shall be returned to the RDO for appropriate action.

      The Law Division shall further review and evaluate the documents submitted by the applicant and the RDO's recommendation. If the same is in order, it shall prepare the appropriate Tax Exemption Ruling for approval and signature of the Commissioner or his duly authorized representative. Otherwise, the docket shall be returned to the Regional Director for appropriate action.

   ii. If based on the pre-evaluation, the RDO is of the position that the corporation or association does not qualify, he shall notify in writing the applicant of such findings, stating the factual and legal bases for the denial. The applicant may appeal the denial to the Regional Director within thirty (30) days from the date of receipt of the written notice of denial.

   If the application for tax exemption/revalidation is denied, the corporation or association shall be held liable for income tax and shall be accordingly assessed for deficiency taxes, inclusive of penalties and interest.

b. If there is incomplete submission of the documentary requirements, the corporation or association shall be notified of such findings and the documents already submitted shall be returned to the applicant for submission/completion.

SECTION 9. Validity of the Tax Exemption Ruling. — A Tax Exemption Ruling issued under this Order shall be valid for a period of three (3) years from the date of effectivity specified in the Ruling, unless sooner revoked or cancelled.

The Tax Exemption Ruling shall be deemed revoked if there are material changes in the character, purpose, or method of operation of the corporation or

association which are inconsistent with the basis for its income tax exemption. The revocation takes effect as of the date of the material change.

SECTION 10. Renewal of Tax Exemption Rulings. —Tax Exemption Rulings may be renewed upon filing of a subseguent. Application for Tax Exemption/Revalidation, under same requirements and procedures provided herein. Otherwise, the exemption shall be deemed revoked upon the expiration of the Tax Exemption Ruling. The new Tax Exemption Ruling shall be valid for another period of three (3) years, unless sooner revoked or cancelled.

SECTION 11. Effect of Failure to File Annual Information Return. — If a corporation or association which has been issued a Tax Exemption Ruling fails to file its annual information return, it shall automatically lose its income tax-exempt status beginning the taxable year for which it failed to file an annual information return, in addition to the sanctions imposed under Section 250 of the NIRC, as amended.

SECTION 12. Transitory Provisions. — Tax exemption rulings or certificates issued to corporations or associations listed under Section 30 of the NIRC, as amended, prior to June 30, 2012 shall be valid until December 31, 2013. Tax exemption rulings or certificates issued after June 30, 2012 shall continue to be valid for a period of three (3) years form date of issuance, unless sooner revoked or cancelled.

SECTION 13. Repealing Clause. — Any revenue issuance which is inconsistent with this Order is deemed revoked, repealed, or modified accordingly.

SECTION 14. Effectivity. — This Order shall take effect immediately.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue