REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 30 of the Tax Code of 1997, as amended
BIR Ruling No. 126-14 BIR Ruling No. 357-13
#330-2016 6-29-2016

U-TURN FOR CHRIST SAMAR, INC.
Brgy. Lalawigan, Borongan,
Eastern Samar 6800

Attention : **Pastor Ron Brown**
President

Gentlemen:

This refers to your undated letter received by this Office on May 25, 2015 duly indorsed by Revenue Region No. 14-Palo, Leyte, requesting a certificate of tax exemption under Section 30(E) of the Tax Code of 1997, as amended.

It is represented that **U-TURN FOR CHRIST SAMAR, INC.** with Taxpayer's Identification No. is organized as a non-stock, non-profit corporation registered with the Securities and Exchange Commission (SEC) under Registration No. dated February 28, 2014; and that the purpose for which it was incorporated is to administer its affairs, properties and estate.

In support of your request, the following documents were submitted:

1) Letter Request;
2) Certified true copy of the Certificate of Incorporation with the Securities and Exchange Commission;
3) Certified true copy of the Corporation's Amended Articles of Incorporation;
4) Certified true copy of the By-Laws;
5) Certified true copy of the BIR Certificate of Registration;
6) Executive Officer's Affidavit dated November 25, 2014 as to amendments/changes in its Articles of Incorporation, manner of activities, and sources and disposition of income;
7) Treasurer's Affidavit dated November 25, 2014 affirming that U-Turn for Christ Samar, Inc does not have income as per commonly defined since the same has no business activities, but is purely a religious mission whose

board of directors and officers do not receive any salary or allowances from the corporation; and

8) Certification from the OIC-Revenue District Officer, RDO No. 86, Borongan, Eastern Samar certifying that U-Turn for Christ Samar, Inc. has no outstanding internal revenue tax liabilities.

In reply, please be informed that your request for tax exemption as a non-stock non-profit corporation under Section of the Tax Code of 1997, as amended, is hereby denied for lack of factual basis.

Notwithstanding that the Articles of Incorporation states that the **U-TURN FOR CHRIST SAMAR, INC.** is a non-stock, non-profit corporation, it has to prove that it is really a corporation organized and operated as contemplated under Section 30 of the Tax Code of 1997, as amended.

Being registered as a non-stock and non-profit corporation does not, by this reason alone, completely exempt an institution from tax. *(Commissioner of Internal Revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 & G.R. No. 195960, 26 September 2012)*

Note that tax exemptions are never presumed and thus, as ruled by the Supreme Court in the case of *Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation (G.R. No. 166408 dated October 6, 2008)*:

> *"He who claims an exemption from his share of common burden must justify his claim that the legislature intended to exempt him by unmistakable terms. For exemptions from taxation are not favored in law, nor are they presumed. They must be expressed in the clearest and most unambiguous language and not left to mere implications. It has been held that "exemptions are never presumed, the burden is on the claimant to establish clearly his right to exemption and cannot be made out of inference or implications but must be laid beyond reasonable doubt". In other words, since taxation is the rule and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms."*

Hence, **U-TURN FOR CHRIST SAMAR, INC.** shall be treated as an ordinary corporation subject to regular corporate income tax and the applicable internal revenue taxes imposed by the Tax Code of 1997, as amended.

Moreover, Section 105 of the Tax Code of 1997 provides that any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of the same Code.

The phrase "in the course of trade or business" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests); or government entity.

Accordingly, if **U-TURN FOR CHRIST SAMAR, INC.** is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, in general, it shall be liable for VAT.

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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JUN 24 2016

K-I-JAC

cc: Regional Director
Revenue Region 14-Palo, Leyte