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

Section 30 (H) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14
BIR Ruling No. 466-2014
SH30-0312-2020
JUN 09 2020

ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.
1013 ACSAT Center, Aurora Blvd. cor. JP Rizal,
Proj. 3, Quezon City 1102

Attention : CLAUDINE GLORIA S. LUCENTE
Corporate Treasurer

Gentlemen:

This refers to your undated letter, applying in behalf of **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (H) of the National Internal Revenue Code (NIRC) of 1997, as amended.

It is represented that **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** with BIR Taxpayer's Identification No. (TIN) [redacted] and Certificate of Registration No. [redacted] dated January 01, 1997, is a non-stock, non-profit association 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. [redacted]; and that the purposes[1] for which the association was incorporated are:

1. *To organize, conduct and carry on the operation of educational institutions in Metro Manila and in other parts of the Philippines, giving collegiate education as well as technical and vocational courses either directly or through distance education, e-learning franchising or other forms of modality, in order to help the Filipino youth in acquiring high standard of instruction and technical training in science and technology and in other educational fields, in accordance with state of the arts methods and practices of progressive educational institutional institutions here and abroad, to conduct seminars and conferences to advance the frontiers of education, science and technology and to secure, to print and publish books, periodicals, magazines, pamphlets and courses of study for use in connection with courses of study of this institution, and to grant diplomas, awards, titles and degrees as may be authorized by the government;*
2. *To own, establish, maintain operate research and/or experimental stations, to act as patron of a benefactor, to any or fields of human endeavor including science and technology, the arts and sciences.*
3. *To purchase, build, lease, construct or otherwise acquire and own real and personal property as may be necessary or useful to carry out the objectives and purposes of the educational institution.*

[1] Per Articles of Incorporation adopted on July 15, 2008.

4. *To offer services as assessment or testing center for various Technical/Vocational skills and technologies for purposes of skills certification as may be requested by any entity, Public or Private.*
5. *Generally, to do such other things and to conduct all educational activities and programs as may be directly conducive to the attainment of the above objectives;*
6. *To do and perform various educational acts permitted by the law and in accordance with regulations of the Department of Education, Culture, and Sports or of the Commission on Higher Education.*

In reply, please be informed that Section 30 of the National Internal Revenue Code of 1997, as amended, enumerates the non-stock and/or non-profit corporations/associations/ organizations that are exempt from income tax in respect to income received by them as such. 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 nonstock and nonprofit educational institution;"*
>
> *xxx xxx xxx"*

"Non-stock" means "*no part of its income is distributable as dividends to its members, trustees, or officers*" and that any profit "*obtained as an incident to its operations shall, whenever necessary or proper, be used for the furtherance of the purpose or purposes for which the corporation was organized*".[2] "Non-profit" means that "*no net income or asset accrues to or benefits any member or specific person, with all the net income or asset devoted to the institution's purposes and all its activities conducted not for profit*".[3]

Revenue Memorandum Circular (RMC) No. 51-2014 has clarified that in order for an entity to qualify as a non-stock and/or non-profit corporation/association/organization exempt from income tax under Section 30 of the NIRC of 1997, as amended, its earnings or assets shall not inure to the benefit of any of its trustees, organizers, officers, members or any specific person. The following are considered "inurements" of such nature:

1. *The payment of compensation, salaries, or honorarium to its trustees or organizers; xxx.*

In the submitted documents of **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.**, it was disclosed that members of the Board of Trustees are entitled to per diem/honorarium. The Certification executed on October 04, 2018 by Corporate Treasurer, Claudine Gloria S. Lucente of **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** states that:

> *"The trustees, officers and other executive of ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC. do not receive their salaries, compensation or any emoluments except for a reasonable per diem/honorarium"*

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[2] Section 87, Corporation Code
[3] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012

The payment of per diem/honorarium to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** This is a form of private inurement which the law prohibits in the organization and operation of a non-stock, non-profit corporation. This act violates the requirement that no part of the net income or assets of the corporation shall inure to the benefit of any individual or specific person. Thus, **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30 (H) of the NIRC of 1997, as amended.

Please bear in mind that, "*being a non-stock and/or non-profit corporation does not, by this reason alone, completely exempt an institution from tax.*"[4] Thus, "*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.*"[5] ***(BIR Ruling No. 466-2014 dated November 19, 2014)***

In view of the foregoing, the request of **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** to be exempted from income tax on its income as a Section 30 (H) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **ASIAN COLLEGE OF SCIENCE AND TECHNOLOGY FOUNDATION, INC.** 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 be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

034121

K-1-JAC
COPY FURNISHED:

REVENUE REGION NO. 7 – Quezon City
Attention: Revenue District Office No. 40 – Cubao, Quezon City

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound, 4427 Interior Old Sta. Mesa Road, Sta. Mesa 1016 Manila

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4 Ibid.
5 Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].