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. 44-2016;
SH30-0584-2020
OCT 06 2020

OUR LADY OF PILAR MONTESSORI CENTER, INC.
Mercury Rd., Pilar Village, Las Piñas, Metro Manila

Attention : <u>ANTHONY EDWARD V. GARCIA</u>
President

Gentlemen:

This refers to your letter dated April 29, 2019, applying on behalf of **OUR LADY OF PILAR MONTESSORI CENTER, 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 **OUR LADY OF PILAR MONTESSORI CENTER, INC.** with BIR Taxpayer's Identification No. (TIN) [redacted] 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 purpose for which the association was incorporated is to *"establish, maintain, operate and conduct a co-educational institution or learning in arts and sciences in the pre-school and elementary levels."*

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

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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 Articles of Incorporation of **OUR LADY OF PILAR MONTESSORI CENTER, INC.** disclosed that its registration with the SEC is only as 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 an ordinary corporation subject to thirty percent (30%) income tax rate pursuant to Section 27 (A) and other internal revenue taxes imposed by the National Internal Revenue Code of 1997, as amended.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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