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

RA No. 8525; Section 34(H)(2), National Internal Revenue Code of 1997, as amended
BIR Ruling No. 292-2016
DT- 0603-2020

OCT 20 2020

FGP CORPORATION
3F Benpres Bldg., Exchange Road cor.
Meralco Avenue, Pasig City 1600

Attention: **MARIA CARMINA Z. UBAÑA**
Vice-President and Comptroller

Gentlemen:

This refers to your letter dated February 26, 2016, requesting on behalf **FGP CORP.** for the availment of the exemption from donor's tax and deductibility of the donation of [redacted] to the Department of Education (DepEd), in accordance with Republic Act (R.A.) No. 8525, otherwise known as the "Adopt-A-School Act of 1998."

It Is represented that FGP Corp., with Tax Identification Number (TIN) [redacted], is a domestic corporation duly registered with the Securities and Exchange Commission (SEC) under SEC Registration No. [redacted] that on July 31,2015, FGP Corp. entered into Memorandum of Agreement (MOA) with the DepEd, in which the former proposed to DepEd to construct thirteen (13) classrooms with accessories, for the benefit of school children affected by Yolanda; that pursuant to said MOA, FGP CORP., through its President and COO Francis Giles B. Puno, executed on December 17, 2015, a Deed of Donation in favor of DepEd whereby the former donated to the latter a total amount of [redacted] for School Rebuilding Project; that Br. Armin A. Luistro FSC, Secretary of the DepEd, Chairperson, Coordinating Council, indorsed the application for tax incentives of FGP CORP. relative to the above-donation, 100% of which amounts to [redacted] plus an additional 50% thereof amounting to [redacted], for a total amount of [redacted] and that per Certification dated January 27, 2015 issued by the National Economic and Development Authority (NEDA), the Adopt-A-School Program is considered a Priority Project in the National Priority Plan of the Government for the year 2015.

In reply, please be informed that under Section 34 (H) (2) (a) of the National Internal Revenue Code of 1997, as amended, donations to the Government, its agencies or political subdivisions are deductible in full from the gross income of the donor. However, donations not in accordance with the National Priority Plan are subject to limited deductibility or deductions to an amount not exceeding 10% in the case of an individual and 5% in the case of a corporation of the taxpayer's taxable net income as computed without the benefit of this deduction.

Moreover, Section 5 of RA No. 8525 provides for an additional deduction from the gross income of the adopting entity equivalent to fifty percent (50%) of the expenses incurred for the project, to wit:

> *"SECTION. 5. Additional Deduction for Expenses Incurred for the Adoption. — Provisions of existing laws to the contrary notwithstanding, expenses incurred by the adopting entity for the 'Adopt-a-School Program' shall be allowed an additional deduction from the gross income equivalent to fifty percent (50%) of such expenses.*

DT-0603-2020
OCT 20 2020

Valuation of assistance other than money shall be based on the acquisition cost of the property. . . ."

The above provision is implemented by Revenue Regulations (RR) No. 10-2003 which provides for the guidelines in the availment of the additional deduction for the expenses incurred by the adopting entity:

"SECTION 3. Tax Incentives Accruing to the Adopting Private Entity. — A pre-qualified adopting private entity, which enters into an Agreement with a public school, shall be entitled to the following tax incentives:

(a) Deduction from the gross income of the amount of contribution/donation that were actually, directly and exclusively incurred for the Program, subject to limitations, conditions and rules set forth in Section 34(H) of the Tax Code, plus an additional amount equivalent to fifty percent (50%) of such contribution/donation subject to the following conditions:

(1) That the deduction shall be availed of in the taxable year in which the expenses have been paid or incurred;

(2) That the taxpayer can substantiate the deduction with sufficient evidence, such as official receipts or delivery receipt and other adequate records —

(2.1) The amount of expenses being claimed as deduction;

(2.2) The direct connection or relation of the expenses to the adopting private entity's participation in the Adopt-a-School Program. The adopting private entity shall also provide a list of projects and/or activities undertaken and the cost of each undertaking, indicating in particular where and how the assistance has been utilized as supported by the Agreement; and

(2.3) Proof or acknowledgment of receipt of the contributed/donated property by the recipient public school.

(3) That the application, together with the approved Agreement endorsed by the National Secretariat, shall be filed with the Revenue District Office (RDO) having jurisdiction over the place of business of the donor/adopting private entity, copy furnished the RDO having jurisdiction over the property, if the contribution/donation is in the form of real property."

In view of the foregoing, since FGP CORP. is compliant with the requirements set forth under Section 3 of RR 10-2003, the amount it actually, directly, and exclusively incurred for the construction of thirteen (13) classrooms with accessories of the Department of Education amounting to is fully deductible from its gross income, plus an additional deduction equivalent to fifty percent (50%) thereof in the amount of or a total deductible amount of *(BIR Ruling No. 292-2016 dated June 27, 2016)*

Lastly, Section 101(A)(1)[1] of the National Internal Revenue Code of 1997, as amended, provides that:

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[1] Renumbered by Republic Act No. 10963 or the TRAIN LAW.

DI-0603-2020
OCT 20 2020

"SECTION 101. Exemption of Certain Gifts. - The following gifts or donations shall be exempt from the tax provided for in this Chapter:

(A) In the Case of Gifts Made by a Resident. -

(1) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government."

Thus, pursuant to the above quoted provision, the donation made by FGP CORP. to DepEd is also exempt from the payment of donor's tax. (*BIR Ruling No. 292-2016 dated June 27, 2016)*

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.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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