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

Section 30 (E) of the National Internal Revenue Code of 1997, as amended
BIR Ruling No. 001-2017
582-2018
APR 03 2018

COLLEGE FOR RESEARCH & TECHNOLOGY
OF CABANATUAN, INC.
Cabanatuan City, 3100 Nueva Ecija

Attention: <u>DR. REYNATO C. ARIMBUYUTAN</u>
President

Gentlemen:

This refers to your undated letter, applying on behalf of **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.,** for tax exemption certificate being enjoyed by non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended.

<u>Background:</u>

COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC. with Taxpayer's Identification No. (TIN) [illegible] and BIR Certificate of Registration No. [illegible] dated January 01, 1997, is a corporation duly organized and existing under the laws of the Republic of the Philippines. It was incorporated as a STOCK CORPORATION and registered with the Securities and Exchange Commission (SEC) under Company Registration No. [illegible]. On February 16, 2016, it was converted from stock corporation to non-stock, non-profit corporation. In its Amended Articles of Incorporation, the purposes[1] for which it was created are:

1. *To establish, maintain and operate an educational institution or institutions for the instruction and training of the youth for basic education, non-degree technical/vocational education, and collegiate courses as well as graduate and post-graduate courses on all branches of science, technology and business in order to develop among its clientele proper values and attitude necessary for personal community and national development;*

2. *To organize, conduct and carry on any activity whatsoever which is necessary for, or incidental to, the purpose of the corporation and generally to do all such things and to perform all such activities as may be, directly or indirectly, necessary to the attainment of the above mentioned objectives; and*

3. *To establish, maintain and operate a facility or facilities which is necessary for, or incidental to, the purpose of the corporation and generally to serve and perform ancillary activities, necessary to the attainment of the above mentioned objectives such as competency assessment center, student canteen, publication, medical and dental clinic, guidance and psychological assessment center and other facilities as learning resource and support structures for the students.*

---

[1] Second Article, Amended Articles of Incorporation

Also, as an educational institution, **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** was permitted and granted the following program registrations and recognitions by the Commission on Higher Education (CHED) and/or Technical Education and Skills Development Authority (TESDA):

PROGRAM	AGENCY	CERTIFICATE NO.
1. Bachelor of Science in Information Technology	CHED	Government Recognition (GR) No.
2. Bachelor of Science in Information Technology under Executive Order No. 358	CHED	Certificate of Authority No. Series of
3. Bachelor of Technical Teacher Education (Major in Food Service Management)	CHED	Government Recognition No. Series of
4. Bachelor of Science in Tourism Management	CHED	Government Recognition No. Series of
5. Bachelor of Science in Hotel & Restaurant Management	CHED	Government Recognition No. Series of
6. Bachelor of Science in Accounting Technology	CHED	Government Recognition No. Series of
7. Two-Year Electronics & Computer Technician	TESDA	Government Recognition
8. Two-Year Associate in Hotel & Restaurant Management NC Level 2	TESDA	Certificate of TVET Program Registration WTR No.
9. Two-Year Electronics & Computer Technology	TESDA	Registration Certificate (NTR) No. Series of
10. Two-Year Computer Science in Information Technology (Computer Programming)	TESDA	Registration Certificate (WTR) No. Series of
11. Two-Year Computer Management	TESDA	Registration Certificate (NTR) No. Series of
12. Three-Year Computer Engineering & Hardware Technology	TESDA	Registration Certificate (NTR) No. , Series of
13. Two-Year Computer Secretarial	TESDA	Registration Certificate (NTR) No. , Series of
14. PC Operations NC II	TESDA	Certificate of TVET Program Registration WTR No.
15. Bookkeeping NC III	TESDA	Certificate of TVET Program Registration WTR No.
16. Food and Beverage Services NC II	TESDA	Certificate of TVET Program Registration WTR No.
17. Housekeeping NC II	TESDA	Certificate of TVET Program Registration WTR No.
18. Bartending NC II	TESDA	Certificate of TVET Program Registration WTR No.
19. Computer Hardware Servicing NC II	TESDA	Certificate of TVET Program Registration WTR No
20. Programming NC IV	TESDA	Certificate of TVET Program Registration WTR No.

In reply, please be informed that **this Office cannot as yet issue the requested Certificate of Tax Exemption** because **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** has to prove by actual operation for at least three (3) years that it is really a non-stock and non-profit educational institution exempt from income tax under Section 30 (H) of the National Internal Revenue Code of 1997, as amended. ***(BIR Ruling No. 001-2017 dated January 05, 2017)***

In the meantime, **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** can file the necessary annual information return instead of an income tax return on or before the fifteenth (15^{th}) day of the fourth (4^{th}) month following the end of its taxable year as required under Section 24 of Revenue Regulations No. 2-40 dated February 10, 1940.[2] Based on such information return, we shall conduct the necessary investigation on the activities undertaken during the period. The letter of exemption shall thereafter be issued depending upon the result of our investigation.

Thus, **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997, 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, which income should be returned for taxation.

Likewise, interest income from currency bank deposits and yield or any other monetary benefits from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax: provided, however, that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15%[3] final withholding tax pursuant to Section 27 (D) (1), in relation to Section 57 (A), both of the National Internal Revenue Code of 1997, as amended.

Also, it should be understood that **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** shall be constituted as withholding agent of the government if it acts as an employer and its employee receives compensation income subject to the withholding tax under Section 79 (A), Chapter XIII, Title II of the National Internal Revenue Code of 1997, as amended, as implemented by Revenue Regulations No. 2-98, as amended, or if it makes income payments to individuals or corporations subject to the expanded withholding tax provided for in Section 57 (B) of the National Internal Revenue Code of 1997, as amended, also as implemented by Revenue Regulations No. 2-98, as amended.

Moreover, under Section 235 of the National Internal Revenue Code of 1997, as amended, any provision of existing general and special law to the contrary notwithstanding, the books of accounts and other pertinent records of tax-exempt organization or grantees of tax incentives shall be subject to examination by the BIR for purposes of ascertaining compliance with the conditions under which it has been granted tax exemptions or tax incentives, and its tax liabilities, if any.

Furthermore, it is subject to the payment of the annual registration fee of Five Hundred Pesos (PhP500.00) as prescribed in Section 236 (B) of the National Internal Revenue Code of 1997, as amended. It is also required to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which the Association is registered under Section 6 (C) in relation to Section 237 of the same Code ***[Revenue Memorandum Circular (RMC) No. 76-2003].***

Value-Added Tax / Percentage Tax

Section 105 of the National Internal Revenue Code of 1997, as amended, provides that:

> *"**SEC. 105. Persons Liable.** - 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.*
>
> *xxx xxx xxx*

---

[2] Collector vs. Sinco, G.R. L-9276 dated October 23, 1956

[3] Republic Act (RA) No. 10963 increased the tax rate from 7.5% to 15% effective January 01, 2018

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.*

xxx xxx xxx"

Accordingly, if **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, its revenues derived therefrom shall be subject to the twelve percent (12%) VAT, in case the gross receipts from such sales exceed Three Million Pesos (P3,000,000.00)[4], or to the three percent (3%) percentage tax, if gross receipts do not exceed Three Million Pesos (P3,000,000.00).

Notwithstanding that it is a non-stock, non-profit corporation, its purchase of goods or properties or services and importation of goods shall nevertheless be subject to the 12% VAT pursuant to Sections 106 to 108 of the said Code.

It must be noted that VAT is an indirect tax payable by the seller and not by the purchaser of goods. Being an indirect tax, the amount of tax may be shifted or passed on to the buyer/purchaser, transferee or lessee of the goods, properties or services. Once shifted to the buyer/customer as an addition to the cost of goods or services sold, it is no longer a tax but an additional cost which the buyer/customer has to pay in order to obtain the goods or services.

However, revenue from contributions and donations, not being derived from sale of services or sale of goods made in the course of business but rather in connection with its non-stock, non-profit activities, is exempt from the 12% VAT.

Finally, for purposes of securing a Certificate of Tax Exemption after the three (3)-year period, **COLLEGE FOR RESEARCH & TECHNOLOGY OF CABANATUAN, INC.** is required to submit the following documents pursuant to **Revenue Memorandum Order (RMO) No. 44-2016:**

(1) *Original copy* of the application letter for issuance of Tax Exemption Ruling;

(2) *Certified true copy* of the Certificate of Good Standing issued by the Securities and Exchange Commission (SEC);

(3) *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;

(4) *Certified true copies* of the Financial Statements of the corporation or association for the last three (3) years;

(5) *Certified true copy* of government recognition/permit/accreditation to operate as an educational institution issued by the Commission on Higher Education (CHED) and/or the Department of Education (DepEd);

(6) For TESDA-Accredited Institutions offering Technical and Vocational Educational Training (TVET) Programs/Courses, *certified true copies* of the TESDA Registrations of the TVET Programs/Courses offered;

---

[4] Republic Act (RA) No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 01, 2018

(7) 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;

(8) *Original copy* of a Certificate 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:

a. 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 professorial course.

b. 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.

c. Any amount in cash or in kind invested in an activity related to the educational purposes for which it was created or organized.

d. 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.

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
014904

E-K-1-LMAT

COPY FURNISHED:

REVENUE REGION NO. 04 – San Fernando, Pampanga
Attention: Revenue District Office No. 23B – South Nueva Ecija