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	
SH-009-2020	
JAN 1 6 2020	

ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, INC.
Poblacion Bonifacio, Misamis Occidental 7215

Attention: **NELLIE A. OMAMBAC**
School Head

Gentlemen:

This refers to your letter dated July 19, 2018, applying on behalf of **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, 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 **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, INC.** with BIR Taxpayer's Identification No. (TIN) [redacted] and Certificate of Registration No. [redacted] dated February 18, 1999, 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 open a school for both sexes and therein to teach the arts, sciences and other studies embraced in basic education;*
2. *To organize, establish, maintain and conduct a progressive institution of learning, of high academic standing which will emphasize Christian Spiritual and Cultural development, moral character and scientific research and to this end, operate a school giving pre-school, elementary, secondary courses, scientific and artistic courses in accordance with up-to-date and modern educational theories and methods set by the government and for the recognition thereof by the Department of Education, Culture and Sports.*
3. *To accept and/or receive contributions, donations, and/or endorsement from corporate members, sympathizers, church members, or from the public by deeds, grants devices, bequest or gifts, for scientific or educational purposes.*
4. *To administer gifts or bequests which may be acquired, accepted and/or received as endowments for the promotion of the aims of the school, and to manage, use, and take charge of all income derived therefrom and use the same according to the purpose and in the manner specified by the donors.*
5. *In furtherance of the purpose, to invest and deal with money of the school in such a manner as from time to time may be determined, provided that the*

1 Amended Articles of Incorporation dated September 11, 2015

profits derived from said undertaking shall not inure to any of the officers but shall be exclusively for the maintenance of the school.

6. *To engage the service of such officers, employees, workers, professional or agents as may be desired or needed in the conduct of the affairs of the school;*
7. *To perform all and everything necessary and proper for the attainment of the purpose of the school or the furtherance of any of the powers above set forth.*

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 **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, INC.**, it was disclosed that Board of Directors are entitled to Honoraria. Treasurer's Certification by Corporate Treasurer Rev. Fr. Victor L. Serino of **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, INC.**, dated September 14, 2017, states that:

> *"That the **Most Rev. Martin Jumoad,** President, **Rev. Fr. Victor L. Serino,** CFO, **Rev. Fr. Francisco Villamor Jr.,** OTR, **Mr. Florentino T. Castro,** OTR, and **Mrs. Virginia T. Razonable,** COS do not receive any income, salaries or emoluments except the honorarium received during the Board meeting twice a year amounting to Two Thousand Pesos only (₱2,000.00) in accordance to the Board Resolution No. 01 duly approved by the same."*

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[2] Section 87, Corporation Code

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The giving of honoraria to the members of the Board of Directors is considered a distribution of the equity (including the net income) of **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, 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, **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, 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 **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, 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, **ST. VINCENT'S HIGH SCHOOL OF BONIFACIO MISAMIS OCCIDENTAL, INC.** 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 NIRC of 1997, as amended.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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COPY FURNISHED:

REVENUE REGION NO. 18 – Koronadal City
Attention: Revenue District Office No. 107 – Cotabato 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]