REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 30 (E) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-2014
BIR Ruling No. 466-2014
376-2017
12-7-2017

REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)
No. 49, Chico St., Project 2, Quezon City

Attention: <u>GLORIA P. JIMENEZ, DPA</u>
Executive Officer

Gentlemen:

This refers to your letter dated October 24, 2013 applying on behalf of **REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association under Section 30 (E) of the National Internal Revenue Code of 1997, as amended, which was forwarded to this Office by Revenue Region No. 7, Quezon City, through 4th Indorsement dated February 09, 2016.

It is represented that **REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated May 07, 1998, is a non-stock, non-profit organization 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. ; and that the purposes[1] for which the organization was incorporated are:

1. *To develop disciples of Jesus Christ as whole persons and promote a contextualized wholistic Christian discipleship in the third world;*

2. *To establish small group Bible studies in homes, offices, schools and communities as the primary means of bringing people to Christ and training them in Christian discipleship;*

3. *To encourage growth in the personal disciplines of Bible study, scripture memory, prayer, fellowship and witnessing;*

4. *To encourage the establishment of training homes as centers for character development and growth in servant hood;*

5. *To develop a strong community identity with other members of the family of God cutting across geographical, social, economic and cultural differences;*

6. *To make use of appropriate conceptualized material and strategies in communicating the gospel of Christ to the greater segment of the population;*

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[1] Article II, Amended Articles of Incorporation

7. *To utilize techniques of mass media from time to time such as production, promotion and distribution of audio-visual materials, slide presentation, tape or motion pictures, libraries and other projects which will assist in the aims of the organization;*

8. *To engage in training programs, continuing classes, conferences and seminars which will continually upgrade the quality of leadership and utilization of skills in the discipleship community and society in general whether national or international;*

9. *To engage in developmental work designed to upgrade the well-being of the members of the discipleship community and promote principles of stewardship and personal and family value system, more consistent with biblical standards;*

10. *To establish and maintain an experimental farm and training center of some of the means of financial and resource development which will utilize large reservoir of agriculturally-oriented and trained disciples;*

11. *To conduct, undertake and assist in scientific researches and experimentation in the socio-agro-business fields which will utilize the skills of our community and potentially benefit much wider area of society;*

12. *To engage in any and all economic and productive activity consistent with the aim of the training center farm complex (that is buying, selling, leasing, manufacturing, development utilization, and promotion and sale of equipment and systems for the utilization of alternative sources of energy such as solar energy, wind and bio-chemical conversion systems);*

13. *To structure business entities with the corporate framework of REACH, Inc. which will encourage and accommodate any and all of the above aims, that is to acquire, control, manage and supervise the use of the capital and technical resources, to liquidate, maintain or set free such entities from time to time as is consistent with the aims of the corporation and good business practices;*

14. *To designate and channel aid for disaster relief and community development need to the discipleship community and other needy groups, acting independently or in cooperation with other organizations and/or government agencies;*

15. *To develop an indigenous financial base, sufficient to carry out the purposes of the corporation;*

16. *To maintain an office support staff to take care of the administrative needs of the organization;*

17. *To solicit and/or accept any gift, grant contributions and endowment plan, bequest or device of any kind and all real and personal properties necessary, desirable or proper for the corporation to hold, acquire, or administer whether from national or foreign sources;*

18. *To hold, purchase, acquire, sell, exchange, lease, mortgage or otherwise deal in real and/or personal property and to invest its funds, money or property in such undertaking, and pursue such activities as may be desired or may be necessary to carry out the purposes and objectives of the corporation;*

19. *To engage in open collaboration and establish relationships with the Christian Churches and organizations to the extent possible, this may include but not to be restricted to sending and receiving missionaries; and*

20. *To do each and everything necessary, appropriate and has been historically to interact with different peoples at their places of need, using various means and methods suited to their specific historical circumstances to bring across a single message, that of God reconciling the world to himself through Jesus Christ. It is for this reason that we believe that the task of developing disciples in Christ must follow the same patter, taking into consideration the social, historical, and cultural context of the peoples we want to reach.*

In reply, please be informed that Section 30 (E) of the National Internal Revenue Code (NIRC) 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*
>
> *(E) Non-stock corporation or association organized and operated exclusively for religious, charitable, scientific, athletic, or cultural purposes, or for the rehabilitation of veterans,* ***no part of its net income or asset shall belong to or inure to the benefit of any member, organizer, officer or any specific person;*** *xxx xxx xxx"* (Emphasis supplied)

"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, 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 xxx xxx

In Section 7, Article III, of the submitted Amended By-Laws of **REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)**, it provides that:

> *Section 7. Compensation – The BOT may receive reasonable honorarium in the performance of their duties and responsibilities as may be fixed by the body according to the authorized rate subject to availability of funds. xxx xxx xxx."*

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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 giving of honorarium to the Board of Trustees is considered distribution of the net income of **REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)** It is a form of 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.

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 **REACH, INC. (RESOURCES EMPLOYMENT AND COMMUNITY HORIZONS, INC.)** to be exempted from income tax on its income as a Section 30 (E) corporation or association is hereby denied as it failed to prove that it is a non-profit corporation or association. Therefore, it shall be subject to thirty percent (30%) corporate income tax pursuant to Section 27 (A) of the National Internal Revenue Code 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. 7 – Quezon City
Attention: Revenue District Office No. 40 – Cubao, Quzon City

[4] CIR vs. St. Luke's Medical Center, Inc. [G.R. No. 195909 & G.R. No. 195960, 26 September 2012].
[5] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].