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

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Sections 30 (E) and (H) of the NIRC of 1997, as amended; RMO Nos. 20-2013 and 44-2016
BIR Ruling Nos. 466-14 & 1111-18
SH30-0583-2020

OCT 06 2020

JPI TECHNOLOGIES TRAINING AND SERVICES, INC.
JM Square Bldg., M. De Leon St.
Poblacion, Sta. Maria
Bulacan, Philippines

Attention: **MS. JANET D.G. MORISHITA**
President

Gentlemen:

This refers to your letter dated September 15, 2019, applying on behalf of **JPI TECHNOLOGIES TRAINING AND SERVICES, INC.** for the issuance of a certificate of tax exemption enjoyed by a non-stock corporation or association organized and operated exclusively for educational purposes under Section 30(H) of the Tax Code of 1997, as amended.

It is represented that **JPI TECHNOLOGIES TRAINING AND SERVICES, 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; and that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. [redacted].

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."

Similarly, Section 30 (H) of the Tax 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; xxx."

Moreover, there are two requisites in order for a non-stock, non-profit educational institution to be exempt from tax as provided under Revenue Memorandum Order (RMO) No. 44-2016; to wit:

a) It is a non-stock, non-profit educational institution; and
b) Its revenues are actually, directly and exclusively used for educational purposes.

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"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".[1] "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".[2]

In the submitted documents of **JPI TECHNOLOGIES TRAINING AND SERVICES, INC.**, it was disclosed that the Board of Trustees are entitled to reasonable per diems. The Treasurer's Affidavit/Certification shows that the Trustees may receive reasonable per diems. The giving of per diems to the members of the Board of Trustees is considered as distribution of equity (including the net income) of **JPI TECHNOLOGIES TRAINING AND SERVICES, 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, **JPI TECHNOLOGIES TRAINING AND SERVICES, INC.** cannot be qualified as a non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue Code 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"[3]. 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"[4]. (BIR Ruling No. 466-2014 dated November 19, 2014)

In view of the foregoing, the request of **JPI TECHNOLOGIES TRAINING AND SERVICES, INC.** to be exempted from income tax on its income as a Section 30(H) institution is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **JPI TECHNOLOGIES TRAINING AND SERVICES, INC.** shall be treated as a regular corporation subject to thirty percent (30%) regular tax rate pursuant to Section 27(A) of the National Internal Revenue Code of 1997, as amended.

Please be guided accordingly.

Very truly yours,

Caesar Dulay

CAESAR R. DULAY
Commissioner of Internal Revenue

036842

CC: Revenue Region No. 05
Attention: Revenue District Office No. 25B- Sta. Maria, Bulacan

Philippine Council for NGO Certification
6th Floor SCC Bldg., CFA-MA Cmpd., 4427 Interior old Sta. Mesa 1013 Manila

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[1] Section 87, Corporation Code
[2] CIR vs. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated 26 September 2012
[3] Ibid