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

Section 30 (G) of the NIRC of 1997, as amended; RMO No. 20-2013; RMC No. 051-14
BIR Ruling No. 466-2014
579-2017
12-7-2017

TANIM KALIKASAN, INC.
National Highway, Brgy. Pagdalagan,
San Fernando City, La Union

Attention: MARINA R. RABE-MANUEL
Executive Director

Gentlemen:

This refers to your letter dated January 29, 2014 applying in behalf of **TANIM KALIKASAN, INC.** for tax exemption certificate being enjoyed by non-stock, non-profit corporation or association organized and operated exclusively for the promotion of social welfare under Section 30 (G) of the National Internal Revenue Code of 1997, as amended, which was forwarded to this Office by Revenue Region No. 1, Calasiao, Pangasinan, through 2nd Indorsement dated August 1, 2014.

It is represented that **TANIM KALIKASAN, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. dated July 14, 2009, 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. and with SEC Certificate of Incorporation dated March 9, 2009; and that the purpose for which the corporation was incorporated is *"to operate a public interest organization working for environmental rehabilitation, restoration, and protection."*

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 (G) 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*
>
> *(G) Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare; 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*".[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]

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

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 National Internal Revenue Code, 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 **TANIM KALIKASAN, INC.**, it was disclosed that the Board of Trustees received transportation allowance / other benefits amounting to P84,600.00 for the year 2013[3]. Moreover, the expenditures and disbursements of the corporation consist mainly of administrative expenses and not for the exclusive promotion of social welfare or for the furtherance of the purpose for which it was incorporated.

The giving of allowances to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **TANIM KALIKASAN, 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, **TANIM KALIKASAN, INC.** cannot be qualified as a non-stock, non-profit corporation or association organized and operated exclusively for the promotion of social welfare under Section 30 (G) 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.*"[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 **TANIM KALIKASAN, INC.** to be exempted from income tax on its income as a Section 30 (G) corporation is hereby denied as it failed to prove that it is a non-profit corporation. Therefore, **TANIM KALIKASAN, 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 National Internal Revenue Code of 1997, as amended.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

011514

K-I-LMAT

COPY FURNISHED:

REVENUE REGION NO. 1 – Calasiao, Pangasinan
Attention: Revenue District No. 3 – San Fernando City, La Union

---

[3] Certification under Oath by Maria Generosa Mislang, the Corporate Treasurer

[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].