REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 30 of the Tax Code of 1997, as amended
BIR Ruling No. 126-14 BIR Ruling No. 357-13
#269-2016

6-22-2016

SIAY FRIENDS OF JESUS FELLOWSHIP, INC.
Purok 1, Logpond, Siay Zamboanga Sibugay

Attention: **PASTOR HENRY C. NAVARRETTE SR.**
President

Gentlemen:

This refers to your letter dated January 8, 2014, duly indorsed by Revenue Region No. 15-Zamboanga City requesting for the issuance of a certificate of tax exemption enjoyed by non-stock corporation or association organized and operated exclusively for religious purposes under Section 30(E) of the Tax Code of 1997, as amended.

It is represented that Siay Friends of Jesus Fellowship, Inc. with Taxpayer's Identification No. [redacted], is a corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. [redacted] dated December 2, 2013; and that the purpose for which it was incorporated is to administer its affairs, properties and estate.

In reply, please be informed that your request for tax exemption as a non-stock non-profit corporation under Section of the Tax Code of 1997, as amended, is hereby denied for lack of factual basis.

Notwithstanding that the Articles of Incorporation states that the Siay Friends of Jesus Fellowship, Inc. is a non-stock, non-profit corporation, it has to prove that it is really a corporation organized and operated as contemplated under Section 30 of the Tax Code of 1997, as amended.

Being registered as a non-stock and non-profit corporation does not, by this reason alone, completely exempt an institution from tax. *(Commissioner of Internal Revenue vs. St. Luke's Medical Center, Inc., G.R. No. 195909 & G.R. No. 195960, 26 September 2012)*

Note that tax exemptions are never presumed and thus, as ruled by the Supreme Court in the case of *Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation (G.R. No. 166408 dated October 6, 2008)*:

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> *"He who claims an exemption from his share of common burden must justify his claim that the legislature intended to exempt him by unmistakable terms. For exemptions from taxation are not favored in law, nor are they presumed. They must be expressed in the clearest and most unambiguous language and not left to mere implications. It has been held that "exemptions are never presumed, the burden is on the claimant to establish clearly his right to exemption and cannot be made out of inference or implications but must be laid beyond reasonable doubt". In other words, since taxation is the rule and exemption the exception, the intention to make an exemption ought to be expressed in clear and unambiguous terms."*

Hence, Siay Friends of Jesus Fellowship, Inc. shall be treated as an ordinary corporation subject to regular corporate income tax and the applicable internal revenue taxes imposed by the Tax Code of 1997, as amended.

Moreover, Section 105 of the Tax Code of 1997 provides that 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.

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.

Accordingly, if Siay Friends of Jesus Fellowship, Inc. is engaged in the sale of goods or services in the course of a business pursuit, including transactions incidental thereto, in general, it shall be liable for VAT.

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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cc: Regional Director
Revenue Region 15-Zamboanga City