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
0751-2019
DEC 09 2019

WESTMINSTER HIGH SCHOOL, INC.
60-68 Honorio Lopez, St., Balut, Brgy. 126,
Zone 10, Dist. I, Tondo, Manila 1012

Attention: **VICTORIA A. FRONDA**
Principal

Gentlemen:

This refers to your letter dated October 23, 2017, applying on behalf of **WESTMINSTER HIGH SCHOOL, 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 **WESTMINSTER HIGH SCHOOL, INC.** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated January 1, 1997, 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 that the purposes[1] for which the association was incorporated are:

1. *To establish and operate a sectarian primary, elementary, and secondary school in the city of Manila, from kindergarten to high school, open to all persons of any nationality, race and creed with view of inculcating in them the highest tenets of Protestant Christianity and prepare them to become physically, mentally and morally sound individuals conscious of their responsibility to God and society;*
2. *To propagate the teachings of Protestantism among the student body in conjunction with the approved curriculum;*
3. *To maintain at all times the highest standards of instruction in all grades;*
4. *To purchase such books, materials and equipment which may be necessary to maintain the operation of the said school in accordance with the highest standards of the secondary education;*
5. *To engage the services of such professors, teachers, employees and other persons as may be desired or needed in the operation of the said school who are qualified in accordance with the rules and regulations of the Bureau of Private Schools;*
6. *To purchase, lease or hire such machineries, tools, motor vehicles and other equipment and their spare parts which said corporation may need for its use or use of its personnel from time to time;*
7. *To purchase, lease or otherwise acquire such real and personal properties or buildings as the corporation may need from time to time;*

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[1] Amended Articles of Incorporation adopted on August 20, 2018

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 non-stock and non-profit 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 National Internal Revenue Code 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 **WESTMINSTER HIGH SCHOOL, INC.**, it was disclosed that members of Board of Trustees are entitled to compensation. The Affidavit of Corporate Treasurer Cherry M. Chiok dated December 27, 2017 states that:

> *"That as a treasurer of the said corporation, I attest that the board of Trustees and its officers have received the following compensation and/or benefits for the year 2017; xxx"*

The giving of compensation to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **WESTMINSTER HIGH SCHOOL, 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, **WESTMINSTER HIGH SCHOOL, INC.** cannot be qualified as a non-stock, non-profit corporation 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.*"[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.*

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

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 **WESTMINSTER HIGH SCHOOL, 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, **WESTMINSTER HIGH SCHOOL, 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
031138

K-1-JAC

COPY FURNISHED:

REVENUE REGION NO. 6
Attention: Revenue District Office No. 29

PHILIPPINE COUNSIL FOR NGO CERTIFICATION (PCNC)
6/F SCC Bldg., CFA-MA Compound,
4427 Interior Old Sta. Mesa Road,
Sta. Mesa 1016 Manila

[5] Quezon City and The City Treasurer of Quezon City vs. ABS-CBN Broadcasting Corporation [G.R. No. 166408, 6 October 2008].