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
SH70-0316-2020
JUN 09 2020

SAINT NICHOLAS SCHOOL OF PLARIDEL, INC.
Northern Poblacion, Plaridel, Misamis Occidental 7209

Attention: **CLEMENTE A. BALAORO**
School Head

Gentlemen:

This refers to your letter dated January 15, 2019, applying on behalf of **SAINT NICHOLAS SCHOOL OF PLARIDEL, 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 **SAINT NICHOLAS SCHOOL OF PLARIDEL, INC** with BIR Taxpayer's Identification No. (TIN) and Certificate of Registration No. OCN dated December 04, 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. .

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 nonstock and nonprofit 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*".[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]

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:

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1. *The payment of compensation, salaries, or honorarium to its trustees or organizers; xxx.*

In the submitted documents of **SAINT NICHOLAS SCHOOL OF PLARIDEL, INC.**, it was disclosed that Board of Trustees are entitled to Honoraria. Treasurer's Certification by Corporate Treasurer Rev. Fr. Victor L. Serino of **SAINT NICHOLAS SCHOOL OF PLARIDEL, INC.**, dated December 31, 2017, states that:

> *"That the **Most Rev. Martin Jumoad,** President, **Rev. Fr. Victor L. Serino,** CFO, **Rev. Fr. Edgardo B. Calog,** OTR, **Mr. Clemente A. Balaoro,,** OTR, and **Mrs. Virginia T. Razonable,** COS do not receive any income, salaries or emoluments except the honorarium received during the Board meeting twice a year amounting to only (₱) in accordance to the Board Resolution No. 01 duly approved by the same."*

The giving of honoraria to the members of the Board of Directors is considered a distribution of the equity (including the net income) **SAINT NICHOLAS SCHOOL OF PLARIDEL, 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, **SAINT NICHOLAS SCHOOL OF PLARIDEL, 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.*"[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 **SAINT NICHOLAS SCHOOL OF PLARIDEL, 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, **SAINT NICHOLAS SCHOOL OF PLARIDEL, 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

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COPY FURNISHED:

REVENUE REGION NO. 16 – Cagayan De Oro City
Attention: Revenue District Office No. 100 – Ozamiz City

PHILIPPINE COUNCIL FOR NGO CERTIFICATION (PCNC)
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4427 Interior Old Sta. Mesa Road,
Sta. Mesa 1016 Manila