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

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution;
Section 30 of the National Internal Revenue Code of 1997, as amended;
RMO No. 44-2016; RMC No. 51-2014
BIR Ruling No. 564-18
SH30-0585-2020
OCT 0 6 2020

MANILA TYTANA COLLEGES, INC.
Metropolitan Park, President Diosdado Macapagal Blvd., Pasay City

Attention: <u>SERGIO S. CAO, Ph. D.</u>
President and Chief Academic Officer

Gentlemen:

This refers to your undated letter applying on behalf of **MANILA TYTANA COLLEGES, INC., (Formerly Manila Doctors College)** for tax exemption certificate being enjoyed by non-stock, non-profit educational institution under Section 30 (H) of the National Internal Revenue Code of 1997, as amended.

It is represented that **MANILA TYTANA COLLEGES, INC.**, with BIR Taxpayer Identification Number (TIN) [redacted] and is registered with the Securities and Exchange Commission (SEC) under Company Registration No. [redacted], is a non-stock, non-profit educational institution providing higher education program in accordance with up to date and modern educational theories and methods; and that it was permitted and granted Government Recognition/ Permit Numbers by the Commission on Higher Education (CHED), National Capital Region[1] and of the Department of Education, National Capital Region[2].

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."* (Emphasis supplied)

Likewise, Section 30 (H) of the National Internal Revenue Code of 1997, as amended, provides, *to wit*:

[1] Certificate No. 16-12-1340, Series of 2016, dated December 21, 2016.
[2] Government Permit (NCR) No. SHS-0063, s.2015 dated March 24, 2015.

"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"* (Emphasis supplied)

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.

"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*".[3] "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*".[4]

In the submitted Certification, as certified to under oath by the Corporate Treasurer[5] of **MANILA TYTANA COLLEGES, INC.**, dated December 21, 2016, the Members of the Board of Trustees are receiving per diem.

The payment of per diem to the members of the Board of Trustees is considered a distribution of the equity (including the net income) of **MANILA TYTANA COLLEGES, 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 is not in accordance with the definition of "non-profit" 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". Thus, **MANILA TYTANA COLLEGES, INC.**, cannot be qualified as a 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.*"[6] 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.*

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

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The burden of proof rests upon the party claiming the exemption to prove that it is in fact covered by the exemption so claimed."[7]

In view of the foregoing, the request of **MANILA TYTANA COLLEGES, 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 educational institution. Therefore, **MANILA TYTANA COLLEGES, 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.

Consequently, this ruling amends BIR Ruling No. 693-2018 dated April 13, 2018 by increasing the income tax from ten percent (10%)[8] to thirty percent (30%)[9] under Section 27 (B) and Section 27 (A) of the National Internal Revenue Code of 1997, as amended, respectively.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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K1-FR-17-1438

COPY FURNISHED:

REVENUE REGION NO. 8 – Makati City
Attention: Revenue District Office No. 51 - Pasay City

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

[8] Section 27 (B) of the NIRC of 1997, as amended.

[9] Section 27 (A) of the NIRC of 1997, as amended.