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

Par. 3, Sec. 4, Art. XIV of the 1987 Constitution; Sections 30 (E) and (H) of the NIRC of 1997, as amended; RMO Nos. 20-2013 and 44-2016
BIR Ruling Nos. 466-14
SH30-0501-2020 SEP 08 2020

BMS CHRISTIAN INSTITUTE, INC.
Annayatan, Baggao, Cagayan 3506

Attention: **Teddy R. Gamata**
Administrator

Gentlemen:

This refers to your letter dated June 5, 2018, applying on behalf of BMS CHRISTIAN INSTITUTE, INC. for the issuance of a certificate of tax exemption enjoyed by a non-stock, non-profit corporation or association organized and operated exclusively for educational purposes under Section 30(H) of the Tax Code of 1997, as amended.

It is represented that BMS CHRISTIAN INSTITUTE, INC. with BIR Taxpayer's Identification No. (TIN) [redacted] and Certificate of Registration No. [redacted] dated April 28, 2015, 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. [redacted]; and that the primary purpose[1] for which the association was incorporated is to establish and operate an educational institution or learning center which shall provide courses of study in Pre-Elementary and Elementary Level subject to the laws of the Philippines; and that it was granted Government Permit (R-02) No. [redacted] on March 27, 2018.

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."

Similarly, Section 30 (H) of the National Internal Revenue Code (NIRC) 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

[1] Amended Articles of Incorporation, adopted on May 12, 2017.

(H) A non-stock and non-profit educational institution; xxx."

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".[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]

In the submitted documents of BMS CHRISTIAN INSTITUTE, INC., it was disclosed that the Board of Trustees and Officers are entitled to allowances. The Treasurer's Affidavit/Certification states that:

> "2. That as such, I hereby that the trustees, officers and faculty members serve in missionary capacity only and are given only minimal allowances to defray their transportation and necessities as the circumstances call."

The giving of allowances to the members of the Board of Trustees is considered as distribution of equity (including the net income) of BMS CHRISTIAN INSTITUTE, 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, BMS CHRISTIAN INSTITUTE, INC. cannot be qualified as a non-stock, 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"[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 BMS CHRISTIAN INSTITUTE, 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 corporation. Therefore, BMS CHRISTIAN INSTITUTE, INC. shall be treated as an ordinary corporation subject to

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

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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

036589

CC: Revenue Region No. 2
Attention: Revenue District Office No. 13 - Tuguegarao City

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