

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

January 11, 2013

REVENUE MEMORANDUM CIRCULAR NO. 4-2013

SUBJECT : Requiring Tax-Exempt Hospitals to Secure Revalidated Tax Exemption Rulings/Certificates

TO : All Revenue Officials, Employees and Others Concerned

This Circular is being issued to require tax-exempt hospitals to secure revalidated tax exemption rulings/certificates.

BACKGROUND

Section 27(B) of the National Internal Revenue Code of 1997 (NIRC), as amended, subjects proprietary hospitals which are non-profit, to an income tax at the rate of ten percent (10%) on their taxable income. The provision reads:

"(B) Proprietary Educational Institutions and Hospitals. — Proprietary educational institutions and hospitals which are nonprofit shall pay a tax of ten percent (10%) on their taxable income except those covered by Subsection (D) hereof: Provided, That if the gross income from unrelated trade, business or other activity exceeds fifty percent (50%) of the total gross income derived by such educational institutions or hospitals from all sources, the tax prescribed in Subsection (A) hereof shall be imposed on the entire taxable income. For purposes of this Subsection, the term 'unrelated trade, business or other activity' means any trade, business or other activity, the conduct of which is not substantially related to the exercise or performance by such educational institution or hospital of its primary purpose or function. A 'proprietary educational institution' is any private school maintained and administered by private individuals or groups with an issued permit to operate from the Department of Education, Culture and Sports (DECS), or the Commission on Higher Education (CHED), or the Technical Education and Skills Development Authority (TESDA), as the case may be, in accordance with existing laws and regulations".
Emphasis supplied

Some proprietary non-profit hospitals, which are owned and/or operated by non-stock non-profit institutions, were able to secure tax exemption rulings from the BIR on the ground that these institutions are charitable or social welfare organizations and thus, exempt from corporate income tax under Section 30 of the NIRC. In the recent case of Commissioner of

Internal Revenue v. St. Luke's Medical Center, Inc., G.R. Nos. 195909 and 195960 dated September 26, 2012, the Supreme Court laid down guidelines in determining whether a proprietary non-profit hospital may be exempted from income tax. In order to uniformly apply these guidelines, it is necessary to re-evaluate tax exemptions previously issued to proprietary non-profit hospitals, or to non-stock, non-profit institutions/entities operating hospitals.

REQUIREMENT

All hospitals and non-stock, non-profit organizations operating hospitals which were issued tax-exempt rulings by the BIR shall submit a request for revalidation of their tax-exempt status by submitting the following documents to the Revenue District Office where the organization is registered:

- a. Letter application which must state the specific paragraph of Section 30 of the NIRC under which it seeks exemption.
- b. Copies of the corporation's latest Articles of Incorporation and By-Laws duly certified by the Securities and Exchange Commission.
- c. Certificate of Registration with the BIR.
- d. Tax Clearance issued by the Revenue District Office where the corporation is registered.
- e. Copies of the Income Tax Returns or Annual Information Returns and Financial Statements for the last three years.
- f. A statement of its modus operandi stating therein its sources of revenues.

In the course of review of the application for tax exemption, the Bureau may require the submission of other documents as the circumstances may warrant.

PROCEDURE

- a. Upon receipt of the application together with the supporting documents, the Revenue District Office shall evaluate the same and shall determine whether it qualifies as an exempt corporation under Section 30 of the NIRC.
- b. If the application is found to be insufficient, the corporation shall be notified of such findings and the application with the supporting documents should be returned to him.
- c. If the application is found to be a valid, a report shall be prepared by the Revenue District Office stating therein why in its opinion the organization is qualified to be tax-exempt under Section 30.
- d. The docket of the case shall be forwarded to the Office of the Regional Director for review. If the Regional Director agrees with the recommendation of the Revenue District Office, the same shall be forwarded to the Office of the Assistant Commissioner, Legal

Service. The Law Division shall review and evaluate the documents submitted, and if in order, prepare the appropriate Certificate of Tax Exemption for signature of the Commissioner or her duly authorized representative.

All rulings issued prior to November 1, 2012 which grant tax exemption to proprietary non-profit hospitals or to non-stock non-profit entities operating hospitals under Section 30 of the NIRC shall no longer be valid.

All concerned revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

(Original Signed)

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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