



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

**DOF OPINION NO. 013.2020**

**ATTY. RACHEL UY-SAN JUAN**  
R. UY-SAN JUAN & ASSOCIATES  
209 Roosevelt Avenue  
San Francisco Del Monte  
Quezon City

**SUBJECT: Request for Review of Bureau of Internal Revenue Ruling  
No. 466-2014 (SE30-0240-2020) dated 21 May 2020**

Dear **Atty. San Juan**:

This refers to the subject letter dated 18 September 2020 ("Request for Review"), which you filed with this Department requesting the review of Bureau of Internal Revenue ("BIR") Ruling No. 466-2014 (S30E-0240-2020) dated 21 May 2020 which denied the National Association for Sikolohiyang Pilipino, Inc.'s (NASPI) request for income tax exemption under Section 30(E) of the National Internal Revenue Code (NIRC) of 1997, as amended.

In particular, the Request for Review prays for the reversal of BIR's denial of NASPI's request for exemption based on the submitted documents which include the Articles of Incorporation, Audited Financial Statements (AFS) for the years 2014 to 2016, among others. In the subject ruling, the BIR determined that the payment of honorarium reflected in the AFS is considered a distribution of equity to the members of the corporation, thus, considered an "inurement" under Section 30(E) of the NIRC, as amended. The pertinent portion of Ruling No. 466-2014 (S30E-0240-2020) reads:

"The submitted Financial Statements of **NATIONAL ASSOCIATION FOR SIKOLOHIYANG PILIPINO, INC.** shows that it pays honorarium. Moreover, more than 50% of the operating income of the corporation was used for administrative expenses. The payment of honorarium to the members of the corporation is considered a distribution of the equity (including the net income) of **NATIONAL**



**ASSOCIATION FOR SIKOLOHIYANG PILIPINO, 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, **NATIONAL ASSOCIATION FOR SIKOLOHIYANG PILIPINO, INC.** cannot be qualified as a non-stock, non-profit corporation under Section 30(E) of the National Internal Revenue Code of 1997, as amended.”

On the other hand, NASPI respectfully disagrees with the above ruling and asserts in its Request for Review that NASPI is a non-stock, non-profit institution pursuant to Section (E) of the NIRC due to the following reasons:

- a. No part of the net income or assets of NASPI inures to the benefit of any member or trustee of NASPI. The honorarium reflected in NASPI’s financial statements were paid to speakers during conference, events, or seminars conducted by NASPI which were participated by different psychology organizations and not to trustees or members of NASPI; and
- b. NASPI did not use more than 50% of its operating income for administrative expenses. The Commissioner erroneously assumed that the totality of the expenses reported in its Audited Financial Statements (AFS) for the years 2016, 2015 and 2014 are entirely administrative in nature since there also include operational expenses.

Being a non-stock and non-profit corporation does not, by this reason alone, completely exempt an organization from tax. Tax exemptions should be limited to organizations beneficial to the public and those which improve social welfare. A profit-making entity should not be allowed to exploit this subsidy to the detriment of the government and other taxpayers.

A non-stock, non-profit corporation is subject to a non-distribution constraint, thus, it cannot distribute profits to those who control it. This is embodied in the prohibition against inurement found in Section 30 (E) of the National Internal Revenue Code (NIRC).

The “inurement” prohibition provided under the law was specifically incorporated as a tool to ascertain that non-stock, non-profit organizations are



not used as a tax shelter through tax exemptions granted thereto or for their officers or organizers to gain or benefit from the income or assets of the said organization, which should appropriately be devoted to the furtherance of the purpose/s for which it was organized.

With such recognized intention, the BIR issued Revenue Memorandum Circular (RMC) No. 51-2014, clarifying the inurement prohibition under Section 30 of the NIRC, and it considered, among others, the payment of compensation, salaries, or honorarium to the trustees or organizers as “inurement” that would prevent the non-stock, non-profit organization from being entitled to exemption from income tax.

In the case of *Commissioner of Internal Revenue vs. St. Luke’s Medical Center, Inc.*,<sup>1</sup> the Supreme Court had the opportunity to define the term “non-profit” which 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.

The issue in the present Request for Review is specifically with regard to the payment of honorarium amounting to Forty-Three Thousand Six Hundred Fifty-Eight Pesos (**PhP43,658.00**) in 2014, Fifty-Eight Thousand Three Hundred Pesos (**PhP58,300.00**) in 2015, and Fifty-Six Thousand Three Hundred Thirty-Three Pesos (**PhP56,333.00**) in 2016, as reflected in NASPI’s AFS. It is the position of the BIR that these amounts were exorbitant for a charitable institution.

It bears emphasis that in determining the reasonableness/unreasonableness of the honorarium given by NASPI, it is not sufficient to consider the amount of the honorarium but also the relevant and surrounding circumstances that necessarily influence the appropriateness thereof. Revenue Memorandum Order (RMO) No. 38-2019 states that to be considered as a non-stock, non-profit corporation under Section 30 of the NIRC, the characteristics, corporate purpose/s and actual operations of the entity serve as a guide in determining the nature of the organization.

Each entity is distinct with characteristics unique to the particular organization and must be evaluated in conjunction with the relevant and surrounding circumstances attending the organization.

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<sup>1</sup> G.R. No. 195909, 26 September 2012.



Upon review of the documents submitted, we considered the following circumstances, in addition to the amount of honorarium paid, in evaluating NASPI's Request for Review:

- a. NASPI's Amended Articles of Incorporation which categorically state that its trustees do not receive any compensation for the performance of its duties, to wit:

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**EIGHT.** That no part of the income which the association may obtain as an incident to its operation shall be distributed as dividends to its members, trustees or officers subject to the provisions of the Corporation Code on dissolution. The trustees shall not receive any compensation and remuneration. Any profit obtained by the association as a result of its operation, whenever necessary or proper shall be used for the furtherance of the purposes enumerated in Article II, subject to the provisions of Title XI of the Corporation Code of the Philippines.

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- b. NASPI also attached in its application for tax exemption with the BIR a Certification executed, under oath, by NASPI's President dated 19 June 2017 (certificate) the organization's list of activities, as follows:
  - i. Various Conferences such as the annual National Conference on Filipino Psychology, Roundtable Discussions related to new research related to conceptual, theoretical, philosophical and methodological issue, among others;
  - ii. Various training programs offered by NASPI to promote Filipino psychology and to equip participants with relevant skills;
  - iii. Research programs undertaken by various researchers related to Filipino psychology;

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- iv. Management of a wide variety of books and resource collection on Filipino Psychology; and
  - v. Publication of materials such as books, journals, monograph related to its purpose of promoting Sikolohiyang Pilipino.
- a. The subject certificate also covers a comprehensive list of the various seminars the organization conducted which is aimed in promoting Sikolohiyang Pilipino. Some of the seminars conducted which include pictures as proof that the event transpired are, as follows:
- i. *“Pinoy Values: Mula Pagpapakatao Tungo sa Pakikipagkapwatao”* held at De La Salle University, Manila on 20 - 22 November 2014;
  - ii. *“Kaisahan at Kaibahan sa Kaakuhan: Sikolohiya ng Identidad bilang Pilipino, Identidad ng Sikolohiyang Pilipino”* held at Ateneo De Davao University, Davao City, Davao del Sur on 19 – 21 November 2015; and
  - iii. *“Paghulagpos at Pag-imbulong: SP Bilang Malaya at Mapagpalayang Sikolohiya”* held at Colegio de San Juan de Letran, Manila on 17- 19 November 2016.
- c. Various acknowledgement receipts signed by the recipient guest speakers and the corresponding certificates of creditable tax (BIR form No. 2307) were also submitted.

Based on the foregoing, we believe that the amount of honorarium reflected in NASPI’s AFS in 2014, 2015, and 2016 are reasonable vis-à-vis the numerous seminars it conducts every year and the guest speakers that are invited to these various events.

In this case, the payment of honorarium for guest speakers is a legitimate expense related to an activity that promotes the objective and benevolent purpose of the organization which is to enhance and promote the field of psychology in different disciplines and sectors of the Filipino society. Taking the foregoing into account and the organization as a whole, we hold that the annual amount of honorarium paid by NASPI to its guest speakers in 2014, 2015, and



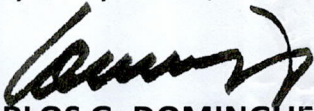


2016 are not considered exorbitant or unreasonable to fall under the “inurement” prohibition under Section 30(E) of the NIRC.

In view of the foregoing, this Office grants the Request for Review. Kindly note that this ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered as null and void.

Thank you.

Very Truly Yours,



**CARLOS G. DOMINGUEZ**  
Secretary of Finance

NOV 25 2020



CC **Hon. Caesar R. Dulay**  
Commissioner  
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