



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

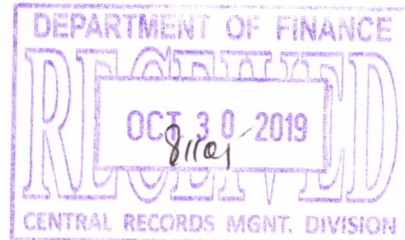
Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

DOF Opinion No. 016.2019

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**OLIVER G. VICTORIANO, DBA**  
Davao Medical School Foundation, Inc. *R*  
Medical School Drive, Bajada  
Davao City, Philippines

*DIN 2:05*  
*OCT 30 2019*



*11:26*  
OCT 30 2019

**SUBJECT: Request for Review of Bureau of Internal Revenue Certificate of Tax Exemption No. 256-2019**

Dear **Mr. Victoriano**:

This refers to the subject letter dated 29 May 2019 ("Request for Review") which you filed with this Department on behalf of Davao Medical School Foundation, Inc. ("DMSFI") to request for review of Bureau of Internal Revenue ("BIR") Certificate of Tax Exemption No. 256-2019 dated 29 April 2019, which granted DMSFI's exemption from income tax on tuition fees and other school-related fees and income derived from operation of cafeterias/canteens, dormitories and bookstores located within DMSFI's premises so long as the same are actually, directly and exclusively used for educational purposes. The Request for Review prays for the modification of the BIR issued Certificate of Tax Exemption No. 256-2019 particularly in regard to the non-exemption from income tax and value-added tax (VAT) of the revenue derived by DMSFI from its hospital operations and IPHC program.

At the outset, it appears that the BIR had established that DMSFI is a non-stock, non-profit educational institution with its primary purpose falling under those enumerated in Section 30(H) of the NIRC, as amended. As such, the BIR issued the subject Certificate of Tax Exemption from income tax and VAT on the abovementioned income and related fees. However, with regard its revenues from hospital operations and Institute of Primary Health Care (IPHC) program, the BIR held that these revenues are subject to ten percent (10%) corporate income tax pursuant to Section 27(B) of the NIRC, as amended. And,

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if the gross income from non-hospital operations exceeds fifty percent (50%) of the total gross income from all sources, the entire taxable income from hospital and non-hospital operations shall be subject to the thirty percent (30%) regular income tax.

Under Section 4(3), Article XIV of the 1987 Constitution, 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. The exemption is constitutionally granted and not subject to limitations imposed by law. The policy of the 1987 Constitution, as discernible from the records of the 1986 Constitutional Commission, is to provide broader tax privilege to non-stock, non-profit educational institutions as recognition of their role in assisting the State provide a public good. The tax exemption was seen as beneficial to students who may otherwise be charged unreasonable tuition fees if not for the tax exemption extended to all revenues and assets of non-stock, non-profit educational institutions.<sup>1</sup> But to be clear, being a non-stock and non-profit institution does not, by this reason alone, completely exempt an institution from tax. An institution cannot use its corporate form to prevent its profitable activities from being taxed.<sup>2</sup>

In relation thereto, the Department of Finance (DOF) issued Department Order (DO) No. 137-87 promulgating the rules and regulations for the effective implementation of Section 4(3), Article XIV of the 1987 Constitution. Section 2.3 thereof provides that revenues derived from and assets used in the operations of hospitals are exempt from taxation provided they are owned and operated by the educational institution as an indispensable requirement in the operation and maintenance of its medical school/college/institute.

Corollary thereto, the Commission on Higher Education (CHED), in its Memorandum Order No. 18, series of 2016, explicitly mandates medical schools to have a base hospital with Level III Department of Health (DOH) classification with accredited residency training programs in medicine, surgery, pediatrics and OB-gyn. As pointed out by DMSFI, the hospital was established primarily as a teaching facility that provides a venue for the students to acquire hands-on knowledge, values and skills in the conduct of excellent health care.

As to the IPHC program, the Company avers that the IPHC is DMSFI's contribution to community development – undertaking trainings and

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<sup>1</sup> CIR vs. De La Salle University, G.R. No. 196596, 9 November 2016.

<sup>2</sup> CIR vs. St. Luke's Medical Center, Inc., G.R. No. 195909, 26 September 2012.



community health, nutrition and sanitation, livelihood and other socio-economic activities geared toward the development of Southern Mindanao. The medical students, with supervision of the faculty members, will mainly provide for the health needs and concerns of the indigenous people in the partner communities. With this, DMSFI asserts that IPHC activities/programs are part of the students' curriculum or subject matter of the specific course or programs. The IPHC program, therefore, is part and parcel of DMSFI's educational and hospital operations and grants and donations received for said program form part of DMSFI's revenues that may qualify for exemption.

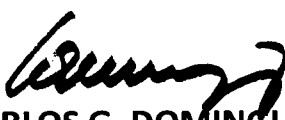
A plain reading of the Constitution would show that Article XIV, Section 4(3) does not require that the revenues and income must have also been sourced from educational activities or activities related to the purposes of an educational institution. The phrase *all revenues* is unqualified by any reference to the source of revenues. Thus, so long as the revenues and income are used actually, directly and exclusively for educational purposes, then said revenues and income shall be exempt from taxes and duties.<sup>3</sup>

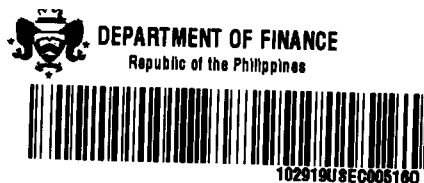
Hence, we hold that the revenues derived by DMSFI from its hospital operations and IPHC program are similarly exempt from income tax and VAT, subject to compliance with the requisites set forth under Revenue Memorandum Order No. 44-2016 and DOF DO No. 137-87.

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.

Sincerely yours,

  
**CARLOS G. DOMINGUEZ**  
Secretary of Finance  
OCT 25 2019



CC Commissioner Caesar R. Dulay  
Bureau of Internal Revenue

  
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<sup>3</sup> *Ibid.*