

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

November 14, 2003

REVENUE MEMORANDUM CIRCULAR No. 76-2003

SUBJECT : Tax Exemptions of Non-Stock, Non-Profit Corporations Section 30, Tax Code of 1997 and Non-stock, Non-Profit Educational Institutions under Paragraph 3, Section 4, Article XIV of the Constitution.

TO : All Internal Revenue Officials, Employees and other Concerned

It has been observed that substantial revenue losses have been incurred due to the non-implementation of taxes due to non-stock, non-profit corporations and non-stock, non-profit educational institutions. For the information and guidance of all internal revenue officers and others concerned, please be informed as follows:

NON-STOCK, NON-PROFIT CORPORATIONS

Organizations enumerated under Section 30 of the Tax Code of 1997 are exempt from the payment of income tax on income received by them as such organization.

However, they are subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997 on their income derived from any of their properties, real or personal, or any activity conducted for profit regardless of the disposition thereof (*i.e. rental payment from their building/premises*), which income should be returned for taxation.

In addition, their interest income from currency bank deposits and yield or any other monetary benefit from deposit substitute instruments and from trust funds and similar arrangement, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax: provided, however, that interest income derived by them from a depository bank under the expanded foreign currency deposit system shall be subject to 7 1/2% final withholding tax pursuant to Section 27(D)(1) in relation to Section 57(A), both of the Tax Code of 1997.

It shall also be constituted as a withholding agent for the government if they acts as an employer and any of their employee receives compensation income subject to withholding tax under Section 79(A), Chapter XIII, Title II of the Tax Code of 1997, as implemented by Revenue Regulations No. 2-98, or if they makes income payments to individuals or corporations subject to the withholding tax provided for in Section 57 of the Tax Code of 1997, also as implemented by Revenue Regulations No. 2-98.

NON-STOCK, NON-PROFIT EDUCATIONAL INSTITUTIONS

The exemption of non-stock, non-profit educational institutions refers to internal revenue taxes imposed by the National Government on all revenues and assets used actually, directly and exclusively for educational purposes (*Paragraph 3, Section 4, Article XIV of the Constitution*).

Furthermore, revenues derived from assets used in the operation of cafeterias/canteens and bookstores are exempt from taxation provided they are owned and operated by the educational institution as ancillary activities and the same are located within the school premises.

Pursuant to Section 109(m) of the Tax Code of 1997, private educational institutions shall be exempt from value-added tax provided they are accredited as such either by the Department of Education, Culture and Sports or by the Commission on Higher Education. However, this exemption does not extend to their other activities involving sale of goods and services.

However, they shall be subject to internal revenue taxes on income from trade, business or other activity, the conduct of which is not related to the exercise or performance by such educational institutions of their educational purposes or functions (Sec. 2, Finance Department Order No. 137-87 as amended by Finance Department Order No. 92-88) *i. e. rental payment from their building/premises.*

Unlike non-stock, non-profit corporations, their interest income from currency bank deposits and yield from deposit substitute instruments used actually, directly and exclusively in pursuance of their purposes as an educational institution, are exempt from the 20% final tax and 7 ½% tax on interest income under the expanded foreign currency deposit system imposed under Section 27(D)(1) of the Tax Code of 1997, subject to compliance with the conditions that as a tax-exempt educational institution, they shall on an annual basis submit to the Revenue District Office concerned an annual information return and duly audited financial statement together with the following:

- (a) Certification from their depository banks as to the amount of interest income earned from passive investment not subject to the 20% final withholding tax and 7 ½% tax on interest income under the expanded foreign currency deposit system imposed by Section 27(D)(1) of the Tax Code of 1997;
- (b) Certification of actual utilization of the said income; and
- (c) Board Resolution by the school administration on proposed projects (i.e., construction and/or improvement of school buildings and facilities, acquisition of equipment, books and the like) to be funded out of the money deposited in banks or placed in money markets, on or before the 14th day of the fourth month following the end of its taxable year (Sec. 3, Finance Department Order No. 137-87).

Finally, the exemption does not cover withholding taxes. As an educational institution, they are constituted as withholding agents for the government required to withhold the tax on compensation income of their employees, or the withholding tax on income payments to persons subject to tax pursuant to Section 57 of the Tax Code of 1997.

In both cases, in order to monitor the activities being conducted by these institutions, it is mandatory that they should maintain their respective set of books of accounts as prescribed in Section 235 of the Tax Code of 1997.

Furthermore, both institutions are subject to the payment of the annual registration fee of P500.00 as prescribed in Section 236(B) of the Tax Code of 1997. They are also required under Section 6(C) in relation to Section 237 of the same Code to issue duly registered receipts or sales or commercial invoices for each sale or transfer of merchandise or for services rendered which are not directly related to the activities for which they are registered.

Please be guided accordingly.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner