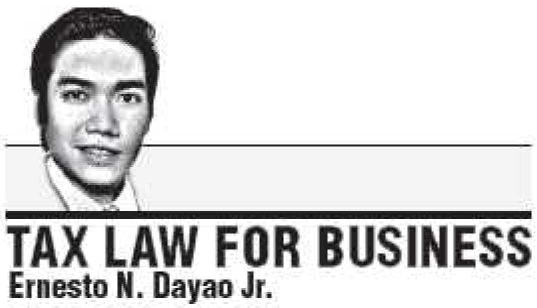

__BDB Law's "Tax Law for Business"__ appears in the opinion section of __Business Mirror__ every Thursday.

Lenient tax-exemption rules for nonstock, nonprofit educational institutions

Recall that in 2013, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) 020-13, prescribing the policies and guidelines in the processing of tax-exemption applications and revalidation of tax-exemption rulings/certifications for corporations and associations listed under Section 30 of the National Internal Revenue Code (NIRC). Essentially, corporations listed in Section 30 of the NIRC are exempt from income tax. But pursuant to the RMO, these corporations need to secure tax-exemption rulings/certifications from the BIR confirming the tax exemption and to have said exemption revalidated as often as every three years.

Included in the types of corporations enumerated in Section 30 of the NIRC are the nonstock and nonprofit educational institutions. Thus, schools falling under this category were also required to secure tax-exemption rulings/certifications from the BIR. In fact, RMO 020-13 appears to be more strict in evaluating the entitlement to exemptions of a nonstock and nonprofit educational institution as it is the only type of corporation specifically mentioned in the RMO, which is specifically required to provide additional requirements in addition to the general requirements for all types of Section 30 corporations.

Because of the requirement for exempt organizations to secure tax- exemption rulings, some applicants found themselves being denied the exemption, even for institutions that had been previously confirmed as exempt by previous rulings. And the denial of exemption varies from failure to provide all required documents to falling outside the ambit of corporations mentioned in Section 30 of the NIRC. And some schools were not spared from the denial of their applications for exemption.

This burden for nonstock and nonprofit educational institutions had somehow been eased by RMO 044-16, which was issued to exclude nonstock, nonprofit educational institutions from the coverage of RMO 020-13. The new RMO recognizes that the tax exemption of nonstock, nonprofit educational institutions is directly conferred by paragraph 3, Section 4, Article XIV of the 1987 Philippine Constitution.

It is stated therein that all revenues and assets of nonstock, nonprofit educational institutions used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties. The exempt status pursuant to Section 30 of the NIRC is merely a reiteration of the constitutional provision. And the RMO specifically provides that the constitutional conferral of tax exemption upon nonstock and nonprofit educational institutions will not be implemented or interpreted in such a manner that will defeat or diminish the intent and language of the Constitution.

Among the changes introduced by RMO O44-16 is that the application for tax exemption by nonstock, nonprofit educational institutions shall be filed with the Office of the Assistant Commissioner, Legal Service. Back then, the filing was with the Revenue District Office where they are registered. In addition, RMO 044-16 materially reduced the documentary requirements with regard to the support for the application for tax exemption. As in the previous rule, the BIR may still require additional information or documents as the circumstances may warrant.

More important, educational institutions are no longer required to renew or revalidate the tax-exemption rulings issued to them. In fact, such exemption rulings shall remain valid and effective, unless recalled for valid grounds. Tax-exemption rulings shall be subject to revocation only if there are material changes in the character, purpose or method of operation of the corporation, which are inconsistent with the basis for its income-tax exemption.

However, to update the records of the bureau and for purposes of a better system of monitoring, the BIR requires nonstock, nonprofit educational institutions with tax-exemption rulings or certificates of tax exemption issued prior to June 30, 2012, to apply for new rulings.

This is a major step forward for easing the processes of getting confirmation of ones entitlement to the privileges granted by law. We hope the new BIR administration will further improve our tax administration policies, to ease the burden on the part of the taxpayers.

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