



17 December 2013

**TO : CEAP NATIONAL BOARD, CEAP MEMBER SCHOOLS,
AND SUPERINTENDENTS**

**RE : ADVISORY ON THE BIR'S
REVENUE MEMORANDUM ORDER NO. 20-2013**

Please be informed that the initial hearing regarding the joint complaint of Ateneo De Davao University and De La Salle Araneta University, Inc. seeking to nullify RMO 20, as amended by RMO No. 28-2013, is initially heard in Branch 91, Regional Trial Court of Quezon City in the afternoon of December 16, 2013. The presiding judge is the Hon. Lita S. Tolentino-Genilo. In the said hearing, CEAP's lawyers seek for the issuance of a Temporary Restraining Order (TRO) pending decision on the prayer for an injunction. The Bureau of Internal Revenue is represented by BIR's Litigation Team and a counsel from the Office of the Solicitor General (OSG).

During the course of the hearing, the counsel from the OSG seeks to move the date of the hearing to a later date due to the inability of the Plaintiff to notify the OSG about the Plaintiff's case against BIR. The counsel from the OSG suggests for it to be moved to December 20 to give him ample time to review the merits of the Plaintiff's case. However, CEAP's lawyers argues that in the rules of court it is the court's discretion to notify the OSG and not the Plaintiff. CEAP's lawyers add that there is a great urgency in the issuance of a TRO due to the imminent Christmas break.

BIR also raises the issue that the RMO is not prejudicial to the Plaintiff. However, CEAP's lawyers argue the detrimental effect stipulated in the RMO if Plaintiff and all other CEAP Member Schools would not be able to comply by December 31, 2013, that is, the nullification of the non-stock, non-profit status of the Plaintiff and the CEAP Member Schools.

Furthermore, BIR questions the court's authority to hear out the Plaintiff's case since cases pertaining to tax collection are beyond the purview of the Regional Trial Court. CEAP's lawyers argue that the Plaintiff's petition is not a tax collection case but rather a question of the constitutionality of the RMO. Thus, the Regional Trial Court is the proper court to hear the Plaintiff's case.

Seeing the urgency of the case, the presiding judge instructs both parties to personally submit their memoranda on Wednesday, December 18, 2013, to give time for the court to make a ruling regarding the petition for a TRO before the Christmas break.

CEAP will continue to monitor the progress of this case and will issue periodic advisories for any developments. Should you have any concerns and inquiries regarding this advisory, kindly contact the CEAP Advocacy Officer, Mr. Anthony V. Coloma at ton.coloma@ceap.org.ph.