



21 December 2013

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

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

Salvador and Associates, CEAP's Legal Counsel for Taxation matters, has informed CEAP that the joint complaint of Ateneo De Davao University and De La Salle Araneta University, Inc. seeking for the issuance of a **Temporary Restraining Order (TRO) has been denied** pending the decision on our prayer for an injunction. The Court stated that Plaintiffs were not able to prove the existence of irreparable injury although the Court did not elaborate on its reasons. Salvador and Associates note, also, that the Court did not comment on the Plaintiffs arguments regarding the "clear and unmistakable right" and the "invasion of such right." Salvador and Associates interpret this to mean that although the Court denied the Plaintiffs request for a TRO, it does not necessarily show and imply that the Court disagrees with the core premise that RMO No. 20-2013 is unconstitutional.

Due to the denial of the TRO, it may be prudent for the CEAP Member Schools, as earlier advised, to submit the documents required by RMO 20-2013 under protest, in view of the December 31, 2013 deadline.

CEAP's Legal Counsel were also notified that the Court has set a hearing on January 8, 2014 for the Plaintiffs application for preliminary injunction. Salvador and Associates expect the BIR to argue that the application for preliminary injunction is already moot considering that, by January 8, 2014, the Plaintiffs would have already complied with the submission of required documents. However, CEAP's position is that the preliminary injunction is still relevant because the Plaintiffs are still in danger of being treated as taxable while they do not yet have their Tax Exemption Ruling. Also, Salvador and Associates intends to make sure that the Court understands that we intend to pursue our prayer to have the RMO declared unconstitutional regardless of the outcome of our application for preliminary injunction. CEAP intends to file a motion for reconsideration (MR) on the denial of the TRO. Although CEAP's Legal Counsel realizes that it would be virtually impossible for the Court to rule on our MR before Dec. 31, Salvador and Associates believe it is important for us to place it on record that the order of denial was erroneous.

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](mailto:ton.coloma@ceap.org.ph). CEAP will accept inquiries and hear out your concerns even during the Christmas break.