REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

RA No. 9904; RA No. 10963
RMC No. 9-2013; RR No. 13-2018
BIR Ruling No. 402-13
OT- 013-2025
JAN 06 2025

PAGKAKAISA NG MGA NANINIRAHAN SA BANGKULASI HOMEOWNERS' ASSOCIATION, INC.
Tecson St., Bangkulasi, Navotas City

Attention: **Arturo S. Palabrica**
President

Gentlemen:

This refers to your request for a confirmatory ruling that Pagkakaisa ng mga Naninirahan sa Bangkulasi Homeowners' Association, Inc. (Bangkulasi HOA) is entitled to tax exemption as a non-stock, non-profit corporation under Section 30 of the National Internal Revenue Code of 1997 (Tax Code), as amended.

It is represented that Bangkulasi HOA is a non-stock and non-profit residential homeowners' association duly organized under Section 2(a) of Executive Order (EO) No. 535 and Section 26 of Republic Act (RA) No. 8763.

In reply, please be informed that Bangkulasi HOA, a residential homeowners association, is not among those non-stock, non-profit corporations contemplated under Section 30 of the Tax Code, as amended, thus, Bangkulasi HOA may not avail of the income tax exemption under the aforesaid provision.

Nevertheless, Revenue Memorandum Circular (RMC) No. 9-2013[1] discussed the income taxability of association dues, membership fees, and other assessments/charges collected by a homeowners' association from its homeowner-members and other entities, to wit:

> *"I. Income Tax – Section 18 of R.A. No. 9904 which exempts from taxation the association dues and income derived from rental subject to certain conditions is an implied recognition by Congress that such receipts are subject to tax under existing laws. Thus, the amounts paid in as dues or fees by homeowner-members of a homeowners' association form part of the gross income of the latter subject to income tax. This is because a homeowners' association furnishes its members with benefits, advantages and privileges in return to such payments. For tax purposes, the association dues, membership fees, and other assessment/charges collected by a homeowners' association constitute income payments or compensation for beneficial services it provides to its member and tenants. The previous interpretation that the*

[1] Clarifying the Taxability of Association Dues, Membership Fees and Other Assessments/Charges Collected by Homeowners' Associations

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assessment dues are funds which are merely held in trust by a homeowners' association lacks legal basis and is hereby abandoned.

Moreover, since a homeowner's association is subject to income tax, income payment made to it are subject to applicable withholding taxes under existing regulations."

In the same vein, RMC No. 9-2013 provides that the association dues and income derived from rentals of Bangkulasi HOA properties may be exempted from income tax provided that the following conditions are complied with pursuant to Section 18 of RA No. 9904:

"a. The homeowners' association must be a duly constituted 'Association' as defined under Section 3 (b) of RA No. 9904;

b. The local government unit having jurisdiction over the homeowners' association must issue certification identifying the basic services being rendered by the homeowners' association and therein stating its lack of resources to render such services notwithstanding its clear mandate under applicable laws, rules and regulations. Provided further, that such services must fall within the purview of the 'basic community services and facilities' which is defined under Section 3 (d) of RA No. 9904 as those referring to service and facilities that rebound to the benefit of all homeowners' and from which, by reason of practicality, no homeowner may be excluded such as, but not limited to: security; street and vicinity lights' maintenance, repairs and cleaning of streets; garbage collection and disposal; and other similar services and facilities; and

c. The homeowners' association must present proof (i.e., financial statements) that the income and dues are used for the cleanliness, safety, security, and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions or villages."

In this case, there was no showing that the Bangkulasi HOA met the above conditions for the entitlement of tax exemption under RA No. 9904. In view of the foregoing, your request for the issuance of a Certificate of Tax Exemption pursuant to the Tax Code, as amended, is hereby denied.

Please be guided accordingly.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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