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

Republic Act No. 9904
RMC No. 09-2013
BIR Ruling No. OT-0506-2020
OT-074-2023
JUN 07 2023

RAYMOND I. NANO
7/F Pharma Plaza, 39 Plaza Drive
Rockwell Center, Makati City

Sir:

This refers to your request for confirmation that **The South Forbes Racha Mansions Homeowner's Association, Inc.** (the **"Association"**) is entitled to exemption from all taxes under Republic Act (RA) No. 9904, otherwise known as the Magna Carta for Homeowners and Homeowner's Associations", as enunciated in Revenue Memorandum Circular No. 9-2013 which clarifies the taxability of association dues, membership fees and other assessments/charges collected by Homeowners' Associations.

It is represented that the Association is a non-stock, non-profit residential homeowners' association duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration Number 27701.

The Office of the Municipal Mayor of Silang, Cavite, has issued the following certification in favor of the Association:

> *"This is to certify that SOUTH FORBES RACHA MANSIONS HOMEOWNERS' ASSOCIATION, INC. is rendering basic services for their subdivision such as: security, maintenance of streets inside the subdivision, garbage collection and disposal from their association dues.*
>
> *xxx xxx xxx"*

In reply, ***Section 18 of R.A. No. 9904*** provides:

> *"SECTION 18. Relationship with LGUs. — Homeowners' associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.*
>
> *Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivisions/villages and their environs.*

Where the LGUs lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the LGUs in providing such basic services, association dues and income derived from rentals of their facilities shall be tax-exempt: Provided, That such income and dues shall be 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." (Underscoring ours)

We regret to inform you that the Association does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. The requisite qualification that the local government unit (LGU) concerned lacks resources to provide for basic services being absent from the Certification issued by the Office of the Municipal Mayor of Silang, Cavite, your request cannot be granted for lack of factual and legal basis[1].

Consequently, the Association shall be subject to the applicable internal revenue taxes on its income from association dues, rentals of their facilities, trade, business and other activities, specifically:

Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997 (Tax Code), as amended, on its income derived from association dues and rentals of its facilities, which income should be returned for taxation. Likewise, interest income from currency bank deposits and yield or any other monetary benefit from deposit substitute instruments and from trust funds and similar arrangements, and royalties derived from sources within the Philippines are subject to the 20% final withholding tax; provided, however, that interest income derived by it from a depository bank under the expanded foreign currency deposit system shall be subject to 15%[2] final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code, as amended. Moreover, it is required to file on or before April 15 of each year a profit and loss statement and balance sheet with the annual information return under oath, stating its gross income and expenses incurred during the year and a certificate showing that there has not been any change in its By-Laws, Articles of Incorporation, manner of operation and activities as well as resources and disposition of income.

Value-Added Tax or Percentage Tax

Likewise, the Association's gross receipts from rentals of its facilities and gross receipts from operations not derived from association dues, membership fees, other assessments and charges collected in a purely reimbursement basis, shall be subject to the 12% VAT as imposed under Section 108 of the Tax Code, as amended, which tax payment may legitimately be passed on to buyers of such goods and services; or 3% percentage tax imposed under Section 116 in relation to Section 109 (BB) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed P3,000,000.00[3].

[1] BIR Ruling No. 399-2013 dated November 7, 2013
[2] As amended by RA No. 10963
[3] RA No. 10963 increased the VAT threshold from P1,919,500.00 to Php3,000,000.00 effective January 1, 2018

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It should be understood that the Association shall be constituted as withholding agent of the government if it acts as an employer and its employees receive compensation income subject to the withholding tax under Section 57 of the Tax Code, as amended.

Furthermore, the Association is also subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code, as amended. It is also required under Section 6 (C) in relation to Section 237 of the same Code to issue duly registered receipts for services rendered which do not comprise income from association dues and rentals of their facilities.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
009043

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