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

R.A. No. 9904; R.A. No. 8424, as amended; RMC No. 09-2013;
BIR Ruling No. OT-345-21
OT-076-2023

JUN 09 2023

PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.
South Hills, San Vicente
City of San Pedro
Laguna 4023

Attention : **Mr. Ramse L. Osano**
President

Gentlemen:

This refers to your request for tax exemption on behalf of **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.**, pursuant to Republic Act (RA) No. 9904 otherwise known as the "Magna Carta for Homeowners and Homeowners' 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.

Documents submitted disclosed that **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.**, is a non-stock and non-profit residential homeowners' association duly registered with the Housing and Land Use Regulatory Board under Certificate of Incorporation No. STR-1031 dated September 29, 2015; that it is situated and within the jurisdiction of the City of San Pedro, Laguna; that among the purposes for which the Association was incorporated is *[t]o construct, manage, maintain and operate adequate facilities and services for its members*; and that the City Administrator of the City of San Pedro, Laguna, Atty. Henry B. Salazar, in a Certification dated November 4, 2022 stated that:

> *"...the **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.**, located in Brgy. Pacita 2, San Pedro City, Laguna, is a private subdivision, including all its roadlots, open spaces and other facilities and amenities inside the said housing community.*
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> *As it is a private subdivision, the **City Government of San Pedro**, is not in any way providing material or financial assistance to the Homeowners Association (HOA) in the maintenance requirements of the subdivision, such as the repair of their roads, provision of water facilities, street lights, security, garbage collection, and other basic services to their residents/homeowners, as the same are being shouldered by the HOA out of their membership fees, monthly dues, rentals to their facilities, assessments and charges, and other fund raising activities solely intended*

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to raise funds for the maintenance of their subdivision as the same is contrary to law."

In reply, please be informed that Section 18 of RA No. 9904 provides that:

*"**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 environments.

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. xxx"

Thus, considering that **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** is a duly registered Homeowners Association with the HLURB; that its financial statements show the delivery of basic community services defined under Sec. 3(d) of RA 9904; and that the Local Government Unit having jurisdiction over the Homeowners Association issued a Certificate that it does not provide material or financial assistance to the Association in the maintenance of its subdivision since it is a private subdivision and the allocation of funds for private subdivisions is contrary to law, this Office hereby holds that the income derived from association dues, membership fees, other assessments and charges collected in a purely reimbursement basis and rentals of facilities of **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** is exempt from income tax, VAT[1] or percentage tax, whichever is applicable. 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.[2]

However, **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

1) Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code (Tax Code) of 1997, as amended, on its income derived from sources other than rental of its facilities, association dues, membership

[1] Section 4.109-1 (B)(1)(y) of the RR No. 13-2018.
[2] DOF Opinion No. 013-2022 dated July 20, 2022.

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fees, other assessments and charges collected on a purely reimbursement basis 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%[3] final withholding tax pursuant to Section 27 (D)(1) in relation to Section 57 (A), both of the Tax Code of 1997, 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.

2) ***VAT or Percentage Tax***

Likewise, **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.**'s gross receipts from operations not derived from rental of its facilities, association dues, membership fees, other assessment and charges collected in a purely reimbursement basis shall be subject to the 12% VAT as imposed under Section 108 of the Tax Code of 1997, 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 Three Million Pesos (P3,000,000.00)[4].

It is requested that a copy of this letter of exemption be attached to the Annual Information Return which **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** will file on or before the 15th day of the fourth month of each year.

Under Section 235 of the Tax Code of 1997, as amended, any provision of existing general or special law to the contrary notwithstanding, the Revenue District Officer shall conduct an audit of annual information return filed, the books of accounts and other pertinent records of **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** to determine compliance with the conditions set forth in this letter of tax exemption and tax liabilities, if any.

It should be understood that **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** 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 of 1997, as amended.

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[3] Republic Act No. 10963 increased the tax rate from 7.5% to 15% effective January 1, 2018.

[4] Republic Act No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 1, 2018.

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Finally, **PEOPLE OF SOUTH HILLS HOMEOWNERS ASSOCIATION, INC.** is also subject to the payment of the annual registration fee of PhP500.00 as prescribed in Section 236 (B) of the Tax Code of 1997, 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
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