REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 22 (B) of the NIRC of 1997, as amended; RR No. 10-2012
BIR Ruling No. 263-2013
JV-126-2022
APR 05 2022

ENJOY REALTY & DEVELOPMENT CORPORATION
Aman Corporate Center, Zone 6
San Felipe, Naga City

Attention: **MR. EMETERIO L. AMAN**
President/CEO

Gentlemen:

This refers to your letter requesting on behalf of Enjoy Realty & Development Corporation (ERDC for brevity) for ruling on the tax implication pertaining to the formation of two (2) joint venture agreements with 1) SP Corazon Holdings, Inc. and Eduardo Jose Siso; and 2) the heirs of Edgar Jose F. Badiola for the purpose of constructing industrial ecozone and residential subdivision project, respectively.

Documents submitted disclosed that ERDC is a corporation duly organized and existing under and by virtue of the laws of the Philippines with office address at No. 21, Zone 5, San Felipe, Naga City; that SP Corazon Holdings, Inc. is a corporation duly organized and existing under and by virtue of the laws of the Philippines, with office address at 125 Cambridge Circle, North Forbes Park, Makati City; that Eduardo Jose H. Sison is an individual, Filipino Citizen with residence and postal address at AMS Compound, Peñafrancia Ave., Naga City; that the Landowners (SP Corazon Holdings, Inc. and Eduardo Jose H. Sison) are the owners of 2 parcels of land situated at Barangay Carolina, Naga City covered under Transfer Certificate of Title (TCT) No. nd TCT No. , respectively; and that by virtue of the Joint Venture Agreement dated June 10, 2020, the parties agreed to develop the above properties to Light Industrial Zone which will be the proposed "Naga City Industrial Park".

Moreover, the heirs of Edgar Jose F. Badiola composed of the surviving spouse, Marjorie Eve P. Badiola and children, Marjorie Louise P. Badiola, Luzaldel Julianne P. Badiola, Edgar Jose P. Badiola, Jr. and Paola Enrico Orestes P. Badiola, all of legal age and with residence and postal address at Lot 6, Block 3, Phase I, Parkview Village, San Felipe, Naga City; that the said heirs are the registered co-owners of parcels of land under TCT Nos; , nd ; that the said heirs enters into a joint venture agreement dated September 14, 2020 with the City Government of Naga and ERDC; and that pursuant thereof ERDC will develop the subject properties into a residential subdivision project. Hence, this request.

In reply, please be informed that pursuant to Section 22 (B) of the National Internal Revenue Code (NIRC) of 1997, as amended, the term "corporation" shall include partnerships, no matter how created or organized, joint-stock companies, joint accounts (*cuentas en participacion*), associations, or insurance companies, but does not include general professional partnerships and a joint venture or consortium formed for the purpose of undertaking construction projects or engaging in petroleum, coal, geothermal and other energy operations

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pursuant to an operating or consortium agreement under a service contract with the Government.

Moreover, Section 3 of Revenue Regulations (RR) No. 10-2012[1] dated June 01, 2012 states that:

> *"SECTION 3. Joint Ventures Not Taxable as Corporations. — A joint venture or consortium formed for the purpose of undertaking construction projects which is not considered as corporation under Section 22 of the NIRC of 1997 as amended, should be:*
>
> *(1) for the undertaking of a construction project; and*
>
> *(2) should involve joining or pooling of resources by licensed local contractors; that is, licensed as general contractor by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI);*
>
> *(3) the local contractors are engaged in construction business; and*
>
> *(4) the Joint Venture itself must likewise be duly licensed as such by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI).*
>
> *xxx xxx xxx*
>
> *Absent any one of the aforesaid requirements, the joint venture or consortium formed for the purpose of undertaking construction projects shall be considered as taxable corporations."*

Indubitably, to be a tax exempt Joint Venture undertaking a construction project, it must satisfy or meet all the above conditions. Thus, considering that ERDC and all its co-venturers are not engaged in construction business and have no Contractor's License issued by the Philippine Contractors Accreditation Board (PCAB) of the Department of Trade and Industry (DTI), the JVA dated June 10, 2020 and September 14, 2020 entered into by ERDC shall be considered as taxable corporation. Thus, it is subject to regular corporate income tax and other applicable internal revenue taxes imposed by the NIRC of 1997, as amended.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] Joint Venture or Consortium Formed for the Purpose of Undertaking Construction Projects and Mandatory Enrollment of Local Contractors in the Electronic Filing Payment System (EFPS).