REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

R.A. No. 9904; R.A. No. 8424;
RMC No. 9-2013; BIR Ruling No. 399-2013;
#007-2016 1-8-2016 Date

FEDERATION OF LAS PIÑAS HOMEOWNERS ASSOCIATION, INC.
Senior Citizen Center, Myrna Panlilio St.,
BF Resort Village, Talon II, Las Piñas City

Attention: ***DR. BONIFACIO C. DAZO***
Chairman

Gentlemen:

This refers to your letter dated April 3, 2013 requesting for a clarification ruling on whether the rental income received by homeowners associations are exempt from income by virtue of Section 30 of the National Internal Revenue Code of 1997, as amended (Tax Code) or through the provisions of Republic Act No. 9904 otherwise known as the "Magna Carta for Homeowners and Homeowners' Associations", as enunciated in Revenue Memorandum Circular (RMC) No. 9-2013 which clarifies the taxability of association dues, membership fees, and other assessments/charges collected by Homeowners' Associations.

Section 18 of R.A. No. 9904, which 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'

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> 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"

On the other hand, Section 30 of the Tax Code provides:

> **"SECTION 30. *Exemptions from Tax on Corporations.*** — The following organizations shall not be taxed under this Title in respect to income received by them as such:
>
> "(A) xxx
>
> xxx xxx xxx
>
> "Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code."

In reply thereto, we hereby clarify that rental income of Homeowners' Associations, as a general rule, are not exempt from income tax.

Homeowners' Associations are not among those corporations contemplated as exempt from the payment of income tax under Section 30 of the Tax Code of 1997, as amended. Pursuant to the last paragraph of Section 30 of the same Code, rental income of Homeowners' Associations is subject to income tax.

The exception to the above general rule is enshrined R.A. No. 9904. As clarified by RMC No. 9-2013, a Homeowners' Associations' income from rental of its properties may be exempted from income tax and value-added tax or percentage tax, whichever is applicable, if the BIR issues a ruling in favor of the Homeowners' Association declaring that the latter has met the following requirements:

> "a. The homeowners' association must be duly registered with the Housing and Land Use Regulatory Board (HLURB);
>
> b. The local government unit must issue a certification that it lacks resources for basic services as

defined by RA No. 9904 and the homeowners' association provides for the same to its members;

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."

Absent the above qualifications, a Homeowners' Association shall be liable for the following:

Income Taxes

A Homeowners' Association shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997 on its income derived from association dues, rentals of their facilities, trade, business and other activities, 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 from it from a depository bank under the expanded foreign currency deposit system shall be subject to 7 1/2% final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code of 1997. 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. (*BIR Ruling No. 399-2013 dated November 7, 2013*)

Value-Added Tax or Percentage Tax

Likewise, a Homeowners' Association's gross receipts from operations derived from association dues, rentals of their facilities, trade, business and other activities shall be subject to the 12% VAT imposed under Sections 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(W) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00).

It should be understood that a Homeowners' 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 of 1997, as amended.

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Finally, a Homeowners' 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 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. (*BIR Ruling No. 399-2013 dated November 7, 2013*)

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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