August 30, 2018

BIR RULING NO. 1135-18

RMC No. 9-2013; R.A. No. 9904; R.A. No. 8424; BIR Ruling No. 103-14; BIR Ruling No. 105-14

Leisure Farms Village Homeowners Association, Inc.
Diokno Highway, Barangay Payapa Ibaba,
Lemery, Batangas 4209

Attention: *AAA*

Gentlemen :

This refers to your letter dated December 4, 2013, requesting on behalf of LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. for a Certificate of Tax Exemption enjoyed by Homeowners' Associations under Republic Act 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 LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. is a residential homeowners' association with Taxpayer's Identification Number (TIN) 000-000-000-000 and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration No. 12921-R4A-05-54 dated April 11, 2005; that Leisure Farms Village is situated and within the jurisdiction of the municipality of Lemery, Batangas; and that among the purposes for which the Association was incorporated are the following:

1. *To promote and advance the best interest and general welfare of the residents, lot owners, lessees, tenants, and occupants in the Leisure Farms Village by adopting and enforcing such rules and regulations regarding the use, enjoyment, and occupancy of all the properties of the Leisure Farms Village Homeowners Association, Inc.*

Copyright 2020 CD Technologies Asia, Inc.

2. *To provide services relating to safety, security, cleanliness and beautification, order, and the general upkeep and maintenance of the community's common area, infrastructure, landscape and facilities;*

   These services include but are not limited to the following:

   a. *Security and safety;*

   b. *Grounds management;*

   c. *Common area building and facilities;*

   d. *Garbage collection; and*

   e. *Community relations.*

3. *To construct, improve, manage, maintain, and operate adequate facilities and services for its members.*

that the Office of the Municipal Mayor of Lemery, Batangas certified that LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC.:

> *"provides and funds the basic services for its homeowners/members, such as but not limited to security, streetlights, provision for water facilities, repair of the road, garbage collection, maintenance and cleaning of the street, cleaning and de-clogging of the drainage pipes and maintenance and repairs of other facilities in the village.*
>
> *Our local government cannot render the aforesaid basic services being provided by LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. to its homeowners/members for lack of resources to render such services notwithstanding the clear mandate under applicable laws, rules and regulations.*
>
> *The said basic community services redound to the benefits of all homeowners/members and fall within the purview of Section 3 (d) of Republic Act No. 9904, otherwise known as the Magna Carta for Homeowners' Associations."*

In support of its request, LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. has submitted the following required documents:

1) Letter application for tax exemption;

2) Certified true copy of the Certificate of Registration with the HLURB;

3) HLURB Certified true copy of the Articles of Incorporation;

Copyright 2020 CD Technologies Asia, Inc.

4) HLURB Certified true copy of the amended By-Laws;

5) Certified true copy of the Annual Information Return and Financial Statements for the last three (3) years of operation;

6) BIR Certificate of Registration;

7) Certification issued by the Revenue District Office No. 58, Batangas City certifying that the Corporation has no outstanding open case/delinquent account as of June 16, 2014; and

8) Other pertinent documents.

LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. bases its exemption on 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' 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. x x x"

In reply thereto, considering the fact that LEISURE FARMS VILLAGE 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 R.A. 9904; and that the Local Government units covering the jurisdiction of the Homeowners Association have issued Certificate that they lack the resources to provide these services to the Association, hence, this Office hereby holds that the income derived from association dues and rentals of facilities of LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. is exempt from income tax, value-added tax 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

Copyright 2020 CD Technologies Asia, Inc.

members, including the maintenance of the facilities of their respective subdivisions or villages. *(BIR Ruling No. 103-14 dated March 26, 2014)*

However, LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. shall be subject to the applicable internal revenue taxes on its other income from trade, business or other activities. Specifically:

Income Tax

It shall be subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997 on its income not derived from association dues nor 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 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. 103-14 dated March 26, 2014)*

Value-Added Tax or Percentage Tax

Likewise, LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC.'s gross receipts from operations not derived from association dues nor rentals of its facilities 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 (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). *(BIR Ruling No. 105-14 dated March 26, 2014)*

It is requested that a copy of this letter of exemption be attached to the annual information return which LEISURE FARMS VILLAGE 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 * conduct an audit of annual information return filed, the books of accounts and other pertinent records of LEISURE FARMS VILLAGE HOMEOWNERS ASSOCIATION, INC. to

Copyright 2020 CD Technologies Asia, Inc.

determine compliance with the conditions set forth in this letter of tax exemption and tax liabilities, if any.

It should be understood that LEISURE FARMS VILLAGE 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.

Finally, LEISURE FARMS VILLAGE 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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Copyright 2020 CD Technologies Asia, Inc.