REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

E.O. 226; RR 16-2011
Secs. 57(B); 106(A)(1)(a) ; 196 NIRC
BIR Ruling No. 334-11
#140-2016
4-18-2016

HAUSPLUS VENTURES, INC.
Suite 1007 Annapolis Wilshire Plaza,
11 Annapolis St., Greenhills, San Juan

Attention: **Ana Maria Lim**
Managing Director

Gentlemen:

This refers to your letter dated October 24, 2014 stating that Hausplus Ventures, Inc. (Hausplus for brevity) with Tax Identification No. is a domestic corporation duly registered with the Securities and Exchange Commission (SEC) under Company Reg. No. It is registered with the Board of Investments (BOI) as an Expanding Developer of Low-Cost Mass Housing Project **(Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan)** on a Non-Pioneer status under Certificate of Registration No. dated November 29, 2012. Hausplus has been granted Income Tax Holiday (ITH) by the BOI for a period of three (3) years from November 2012 or actual start of commercial operations/selling, whichever is earlier but in no case earlier than the date of registration. **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** is duly registered with the Housing and Land Use Regulatory Board (HLURB) Region III, particularly described as follows:

Certificate of Registration No.	License to Sell No.	Name of Project/Location	No. of Saleable Lots	Maximum Selling Price
		Villa Annapolis Subdivision Phase 1	224 Economic units & 166 socialized units	) per H & L – economic units &) per H& L- socialized units
		Villa Annapolis Subdivision Phase 2	79 lots/units	P per H & L – economic units
		Villa Annapolis Subdivision Phase 2B	202 lots/units	P per H & L – economic units
		Villa Annapolis Subdivision Phase 2C	173 lots/units	per H & L – economic units

Under the Specific Terms and Conditions of its BOI Registration, Hausplus shall construct and sell six hundred eighty nine (689) units of low-cost mass housing for **Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** based on the following schedule:

Year	Volume (No. of Units)
1	120
2	240
3	329
Total	**689**

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On the basis of the foregoing, you now request for an opinion on the tax consequences of the said ITH granted by BOI. Specifically, if Hausplus, being a BOI- registered enterprise is exempt from the payment of the creditable withholding tax (CWT) imposed under Revenue Regulations No. 2-98 on income payments received during the aforementioned period with respect to its registered activity.

In reply, please be informed that under Section 2.57.5 (B)(2) of Revenue Regulations (RR) No. 2-98, as amended by RR No. 6-2001 implementing Section 57 (B) of the Tax Code of 1997, as amended, the withholding tax prescribed in the said Regulations shall not apply to income payments to persons enjoying exemption from the income tax provided by Republic Act No. 7916 and the Omnibus Investments Code of 1987.

Accordingly, since **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** is a BOI registered project, this Office is of the opinion as it hereby holds, that income payments received by Hausplus in connection with its housing project, **Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan** (on the 678[1] low-cost mass housing units), is exempt from CWT under RR No. 2-98, as amended by RR No. 6-2001, for a period of 3 years from November 2012 or actual start of commercial operations/selling, whichever is earlier but in no case earlier than the date of registration. It must be emphasized, however, that the above exemption from CWT covers only income directly attributable to revenues generated from the registered activity, **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** involving 678 low-cost mass housing units. Furthermore, such exemption shall not cover revenues from units with selling price exceeding n the computation of ITH, interest income from in-house financing shall not be considered as revenues generated from the registered activity.

Moreover, the entitlement to ITH of **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** is not automatic as it still has to comply with the following provisions of the Specific Terms and Conditions of their BOI Registration, *viz:*

1. In the grant of incentives, the extent of the project's ITH entitlement shall be based in the project's ability to contribute to the economy's development based on the following parameters: (1) project's net value added, (2) job generation, (3) multiplier effect, and (4) measured capacity. In the event that the registered enterprise fails to implement the project as represented in its project application, the Board may reduce the project's ITH entitlement proportionate to the actual performance of the enterprise. The enterprise shall comply with the following representations:

   a. **Net Value Added (NVA) should be at least 25%**

	Y1	Y2	Y3
NVA	95%	95%	96%

   b. **Job Generation**

	Number of Employees

[1] License to Sell Nos. covers 678 units while its BOI Registration states 689 units due to misclassification under Villa Annapolis Subdivision Phase 2C Project per taxpayer's letter request.

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Total Employees	Year 1	Year 2	Year 3
	66	81	128

c. **Investments and Timetable**

Activity	Schedule	Related Expense/s	Cost (P'000)
Land acquisition	June to September 2009	Land cost	
Secure necessary license/permit/registration from the government/training costs	January 2010 to June 2011	Pre-operating expenses	
Site preparation and development	June 2012 to June 2014	Land/site development cost	
Building/ House construction	June 2012 to September 2014	Building construction cost	
Start of Commercial Operations	December 2012	Working capital	
TOTAL PROJECT COST			

d. **Sales Revenues**

Year	Volume (No. of Units)	Value (P' 000)
1	120	
2	240	
3	329	
Total	**689**	

Net income qualified for ITH availment shall not be a result of gross revenues exceeding 10% of the projected gross revenues represented by the enterprise in its application provided the project's actual investments and employment match the enterprise's representations in its application. In cases where the project's actual revenues exceed the projections in its application by more than 10%, the Board may increase the project's ITH availment proportionately for reasons such as bust not limited to (a) additional investments; (b) new markets/orders; (c) additional employment and/or increase in number of working shifts. Request/s for adjustment of projected revenue must be filed before the filing of application for ITH.

2. The enterprise shall submit the list of cost items common to all its projects/activities (whether BOI or not-BOI-registered) and the methodology adopted in allocating the common costs between the registered activity/ies and non-registered activity/ies.

3. Secure from the HLURB an endorsement that it has faithfully complied with the approved development plan and a "Certificate of Good Housekeeping".
4. File an application with the BOI Incentives Department within one (1) month from filing of the final Income Tax Return (ITR) with the Bureau of Internal Revenue (BIR) in order to validate the claim for income tax exemption. The application

shall be accompanied by a certification from the Social Security System (SSS) that the enterprise is in good standing in the remittance of SSS contributions of its employees.

5. Secure a Certificate of ITH Entitlement (CoE) from the BOI Supervision and Monitoring Department (SMD) prior to filing of ITR with the BIR; otherwise, ITH for that particular taxable year without CoE shall be forfeited.

6. In the event the enterprise fails to maintain the 75:25 debt-equity ratio requirement, it shall show proof that the construction of housing units have been completed and delivered to buyers prior to availment of ITH; otherwise, the enterprise shall not be entitled to ITH and shall be required to refund any capital equipment incentives availed of.

7. The enterprise shall submit proof of compliance that at least twenty percent (20%) of the total subdivision area (estimated at 11,139 sq.m) or total subdivision project cost (estimated at has been developed and allocated for socialized housing within one year from date of registration or prior to availment of ITH, whichever is earlier. This may be done through any of the following modes: The investment scheme may be complied with through any of the following modes: The investment scheme may be complied with through any of the following modes: (1) New Settlement; (2) Slum Upgrading; and (3) Joint Venture Projects. Otherwise, the ITH for that particular year shall be deemed forfeited.

   Compliance with the twenty (20%) percent housing requirement must be completed within the ITH availment period and should be proportionate to the number of low-cost housing units being applied for ITH for the taxable year.

8. The enterprise must abide by the principles of Good Corporate Governance.

Furthermore, BOI-registered enterprises enjoy no tax exemption/privileges other than those granted under E.O. 226. In this regard, under the terms and conditions of its BOI registration, **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** was clearly granted a 3-year ITH but such terms and conditions do not provide for any exemption from other taxes that Hausplus may be subject to on its business transactions. Thus, **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** will remain subject to Value-Added Tax (VAT) and Documentary Stamp Tax (DST) on its sales of house and lot units pursuant to Sections 106 (A)(1)(a) and 196 of the Tax Code of 1997, as amended. *(BIR Ruling No. 334-11* dated September 7, 2011)

In relation thereto, Section 109 (1) (P) of the Tax Code of 1997 provides, that the sale of residential lot valued at One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00) and below, or house and lot and other residential dwellings valued at Three Million One Hundred Ninety Nine Thousand Two Hundred Pesos (P3,199,200.00) and below is VAT-exempt[2]. Thus, only the sales by **Hausplus' Villa Annapolis**

[2] The increase in the threshold amount for the sale or lease of goods or properties or the performance of services covered by Section 109(P), (Q) and (V) of the 1997 Tax Code took effect on January 1, 2012, pursuant to *Revenue Regulations No. 16-2011* dated October 27, 2011.

Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project housing units with selling price of not more than the aforementioned price ceilings shall be exempt from VAT.

Pursuant to Section 4 of Republic Act (RA) No. 10708, **Hausplus** is required to file its tax returns and pay its tax liabilities, on or before the deadline as provided under the 1997 Tax Code, as amended, using the electronic system for filing and payment of taxes of the BIR. Furthermore, **Hausplus** shall file with BOI a complete annual tax incentives report of its income-based tax incentives, value-added tax (VAT) and duty exemptions, deductions, credits or exclusions from the tax base, as may be provided under E. O. 226, within thirty (30) days from the deadline for filing of tax returns and payment of taxes.

It should be understood that **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** shall be constituted as a withholding agent for the government if it acts as employer and any of its employees received compensation income subject to compensation withholding tax, or if it makes payments to individuals or corporations subject to the withholding taxes as source as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended and implemented by Revenue Regulations No. 2-98, as amended.

Likewise, **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project** is required to file on or before the 15th day of the fourth month following the close of its accounting period of a Profit and Loss Statement and Balance Sheet with the Annual information Return under oath, stating its gross income and expenses incurred during the taxable year.

Finally, **Hausplus' Villa Annapolis Subdivision – Brgy. Dulong, San Jose del Monte City, Bulacan Project's** books of accounts and other pertinent records shall be subject to periodic examination by revenue enforcement officers of this Bureau for the purpose of ascertaining whether it has been complying with the conditions under which it has been granted tax exemption or tax incentives and its tax liability, if any, pursuant to Section 235 of the Tax Code of 1997, as amended.

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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