February 11, 2019

BIR RULING NO. 150-19

Republic Act (RA) No. 9904; Revenue Memorandum Circular No. 9-2013; BIR Ruling No. 197-2016

Juana 6 Homeowners Association, Inc.
Juana Complex 6, Biñan,
Laguna 4024

Attention: *AAA*

Gentlemen :

This refers to your request for a confirmatory ruling that **JUANA 6 HOMEOWNERS ASSOCIATION, INC.** is entitled to the exemption from all taxes under Republic Act (RA) No. 9904, otherwise known as the "Magna Carta for Homeowners and Homeowners' Associations."

Documents submitted disclosed that **JUANA 6 HOMEOWNERS ASSOCIATION, INC.** is a homeowners' association with Taxpayers Identification Number (TIN) 000-000-000-000 and duly registered with the Home Insurance and Guaranty Corporation under Registration No. 04-1496 dated September 28, 1990; that the purposes which it was incorporated are as follows:

1. To construct, manage, maintain and operate adequate facilities and service for its members;

2. To initiate and organize socio-cultural projects and activities which will awaken community consciousness and belonging;

3. To promote, enhance and foster the development and improvement of the quality of life of the members through livelihood projects and other economic activities;

4. To acquire, accept donations, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer or otherwise invest, deal in or trade, in any manner permitted by law, real and personal property of every kind and description, or any interest therein, as may be necessary for the accomplishment of the purposes of the Association;

Copyright 2020 CD Technologies Asia, Inc.

5. To borrow and otherwise contract indebtedness and issue notes, bonds and other evidence of indebtedness and to secure payment therefor by mortgage, pledge or deed of trust of, or through encumbrance on any or all of its then-owned or after-acquired real or personal properties and assets;

6. To enter into, make, perform and carry out, or cancel and rescind contracts of every kind and for any unlawful purpose with any person, firm, association, corporation, syndicate, domestic or foreign, or others; and

7. To do and perform any other acts and things, and to have and exercise any other powers which may be necessary, convenient and appropriate to accomplish the purposes for which the Association is organized.

and that the Office of the City Mayor of the City of Biñan issued a Letter-Certification [1] attesting that the basic services as defined by RA No. 9904 rendered by **JUANA 6 HOMEOWNERS ASSOCIATION, INC.** to its constituents are being provided by the Association and no assistance in any form comes from the City Government.

JUANA 6 HOMEOWNERS ASSOCIATION, INC. bases its exemption on Section 18 of RA 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.* (Underscoring supplied)
>
> xxx xxx xxx"

In reply thereto, we regret to inform you that **JUANA 6 HOMEOWNERS ASSOCIATION, INC.** does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. The requisite qualification that the *city or municipality concerned lacks resources to provide for basic services* being absent from the Letter-Certification issued by the Office of the City Mayor of Biñan, your request cannot be granted for lack of factual and legal basis. ***(BIR Ruling No. 197-2016 dated May 17, 2016)***

Copyright 2020 CD Technologies Asia, Inc.

Consequently, **JUANA 6 HOMEOWNERS ASSOCIATION, INC.** shall be subject to the applicable internal revenue taxes on its income from association dues, rentals of their facilities, trade, business and other activities. Specifically:

1. **Income Tax**

> It 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 by it from a depository bank under the expanded foreign currency deposit system shall be subject to fifteen percent (15%) [2] final withholding income tax pursuant to Section 27(D)(1) in relation to Sec. 57(A) both of the National Internal Revenue 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. **Value-Added Tax or Percentage Tax**

> Also, **JUANA 6 HOMEOWNERS ASSOCIATION, INC.'s** gross receipts from operations not derived from association dues, membership fees, rentals of its facilities, nor other assessments and charges collected on a purely reimbursement basis, shall be subject to the 12% VAT as imposed under Section 108 of the National Internal Revenue 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). [3]

It should be understood that **JUANA 6 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 National Internal Revenue Code of 1997, as amended.

Finally, **JUANA 6 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 National Internal Revenue 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.

Copyright 2020 CD Technologies Asia, Inc.

This ruling being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, this ruling shall be considered null and void.

Very truly yours,

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

Footnotes

1. Letter-certification from the Office of the City Mayor of Biñan City dated June 18, 2015.
2. Republic Act (RA) No. 10963 increased the tax rate from 7.5% to 15% effective January 01, 2018.
3. Republic Act (RA) No. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 01, 2018.

Copyright 2020 CD Technologies Asia, Inc.