REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Bureau of Internal Revenue Ruling

RMC No. 9-2013; R.A. No. 9904; R.A. No. 8424		197-2016

Person to Contact: Chief, Law Division
Tel Nos. 926-55-36 / 927-09-63

May 17, 2016
Date

AYALA GREENFIELD ESTATES
HOMEOWNERS ASSOCIATION, INC.
The Clubhouse, Nature Park,
Ayala Greenfield Estates, Brgy. Maunong,
Calamba City, Laguna 4027

Attention: ***JOSEPH M. PERNIA***
AGE Board President

Gentlemen:

This refers to your letter dated April 30, 2013 and indorsed to this Office by the Regional Director of Revenue Region No. 9 on June 4, 2013 requesting for a confirmatory ruling that **AYALA GREENFIELD ESTATES HOMEOWNERS ASSOCIATION, INC.** (**AGEHAI**, for brevity) is entitled to the exemption from all taxes 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 **AGEHAI**, is a residential homeowners association with taxpayers identification number (TIN) and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Certificate of Registration No. dated January 29, 2004; it is primarily organized to:

> "1. To promote and advance the best interests, general welfare and prosperity, as well as safeguard the well-being, of the lot owners, homeowners or long-term lessees at the Ayala Greenfield Estates, a residential subdivision registered with the Housing and Land Use Regulatory Board (HLURB), the territorial boundaries of which are the areas within the parcels of land identified and delineated in the sketch plan hereto attached as Annexes "A", "A-1", "A-2", "A-3" with technical descriptions hereto attached as "Annex B" all annexes made an integral part hereof, and such other areas or parcels which may be annexed to and made part of Ayala Greenfield Estates as registered with the HLURB or its

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> successor agency/agencies, such areas or parcels hereby being deemed part of the territorial boundaries of Ayala Greenfield Estates without need for any corporate action or further amendment of this Second Article and it being understood that for the purpose of determining the extent of the territorial boundaries of Ayala Greenfield Estates the subdivision plans for other phases submitted and approved by the HLURB or its successor agency/agencies shall be controlling.
>
> Ayala Greenfield Estates is an integral part of a master planned development called Ayala South, which shall consist of developments of the Ayala Group located principally in the provinces of Laguna and Batangas. Consequently, upon the formation of the federation of associations for Ayala South, which federation is intended to be formed by Ayala Land, Inc. and its affiliated companies including Ayala Greenfield Development Corporation, the developer of Ayala Greenfield Estates, for the purpose of maintaining, administering, equipping, supplying and providing the Association and other federation members with the common facilities, utilities and services for Ayala South, the Association shall automatically be a member of said federation of associations, binds itself to pay all dues and assessments duly imposed by the said federation of associations of Ayala South, and to comply with the by-laws and reasonable rules and regulations thereof."

and that the Office of the Mayor of the City Government of Calamba certified that:

> "xxx the City of Calamba is not providing nor subsidizing the basic services at the Ayala Greenfield Estates (AGE) in Barangay Maunong, Calamba City which include grounds keeping, security and safety, street lights, repairs and maintenance of roads, garbage collection and disposal and other similar services.
>
> "The aforementioned services could not be provided by the City Government due to its limited resources. Instead, they are provided by the Ayala Greenfield Estates' Homeowners' Association, Inc. in compliance with the provision of Section 18 of the Magna Carta for Homeowners' Associations to support and complement the LGU by providing services to their residents and members."

In support of its request, **AGEHAI** has completely submitted on May 25, 2015, the following 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;
4) HLURB Certified true copy of the 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) Other pertinent documents

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AGEHAI 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. xxx"

In reply thereto, we regret to inform you that **AGEHAI** 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 Certification issued by the Office of the Mayor of the City Government of Calamba, your request cannot be granted for lack of factual and legal basis. (*BIR Ruling No. 399-2013 dated November 7, 2013*)

Consequently, **AGEHAI** 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:

Income Taxes

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 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, setting 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.

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Value-Added Tax or Percentage Tax

Likewise, AGEHAI'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 **AGEHAI** 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, AGEHAI 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 237 of the same Code in relation to Section 237 of the same Code to issue duly registered receipts.

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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