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;

#271-2016 6-22-2016
Date

AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.
Bayani Road, Fort Bonifacio, Taguig City

Attention: **CAPT. PROCESO L. MALIGALIG, PN (Ret)**
Chairman

Gentlemen:

This refers to your letter dated December 27, 2013 requesting for a confirmatory ruling that the **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.** is entitled to exemption from value-added tax as provided for in Section 30(C) of the National Internal Revenue Code of 1997, as amended (Tax Code); and, alternatively, 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 **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.**, is a non-stock and non-profit residential homeowners association duly registered with the Housing and Land Use Regulatory Board under Registration No. [redacted] and that the Office of the City Administrator of Taguig City City has issued a Certification in favor of **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.** stating that:

> "This is to certify that AFP OFFICERS VILLAGE ASSOCIATION INC. (AFPOVAI), a homeowners' association duly organized and existing under the laws of the Republic of the Philippines with offices at AFPOVAI Bldg., Bayani Road Fort Bonifacio, Taguig City and within the jurisdiction of this office, provides and funds the basic services for its homeowners/members, such as but not limited to security, street lighting, maintenance, repairs and cleaning of streets, repair and maintenance of drainages, and maintenance and repair of community facilities.

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"Said basic community services fall within the purview of Section 3(d) of Republic Act No. 9904, (otherwise known as Magna Carta for Homeowners and Homeowners' Association).

"The City Government cannot, at this time, provide funds for said services.

"This certification is issued for whatever legal purpose it may serve."

AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC. bases its request for exemption on Section 30 (C), which provides:

"**Sec. 30.** ***Exempt from Tax on Corporations.*** — The following organizations shall not be taxed under this Title in respect to income received by them as such:

XXX XXX XXX

(C) A beneficiary society, order or association, operating for the exclusive benefit of the members such as a fraternal organization operating under the lodge system, or a mutual aid association or a non-stock corporation organized by employees providing for the payment of life, sickness, accident, or other benefits exclusively to the members of such society, order, or association, or non-stock corporation or their dependents; xxx."; xxx"

Alternatively, **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.** bases its exemption from value-added tax 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"

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In reply thereto, we regret to inform you that Section 30 of the Tax Code, which provides for an enumeration of corporation which are exempt from income tax does not apply to **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.**. The association also 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 City Administrator of Taguig City, your request cannot be granted for lack of factual and legal basis. (*BIR Ruling No. 399-2013 dated November 7, 2013*)

Consequently, **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), 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:

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, 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.

Value-Added Tax or Percentage Tax

Likewise, **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.**'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 **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), INC.** shall be constituted as withholding agent of the

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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, **AFP OFFICERS VILLAGE HOMEOWNERS' ASSOCIATION (PHASE 5), 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.

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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