REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

E.O. 226; RR 2-98
BIR Ruling No. 342-14; BIR Ruling No. 329-14
#306-2016
6-28-2016

DDC LAND, INC.
Marbella 101 Condominium, Ground Floor, Unit 1
2223 Roxas Blvd., Pasay City 1300

Attention : **Engr. Edna R. Sutter**
President & CEO

Gentlemen:

This refers to your letter dated December 21, 2015, applying for tax exemption on the tax consequences of the Income Tax Holiday (ITH) granted by the Board of Investments (BOI) to **DDC LAND, INC.** under Executive Order (EO) No. 226 otherwise known as the "Omnibus Investments Code of 1987", for a period of three (3) years from the start of commercial operations/ selling.

Documents submitted disclosed that **DDC LAND, INC.**, with Taxpayer's Identification No. (TIN) is a domestic corporation duly organized and existing under Philippine Laws; that it is registered with the Securities and Exchange Commission (SEC) bearing SEC Certificate of Registration No. ; that it is engaged in real estate development; that it is registered with the BOI as an Expanding Developer of Economic and Low-Cost Housing Project on a Non- Pioneer status for the mass housing project:

Project Name	Location	BOI Reg. No.	Date of BOI Registration	Start of Commercial Operation/ ITH	No. of Units
Santa Rosa Garden Villas III Phase 3	Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna		January 5, 2016	January 2016	79

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that under the Specific Terms and Conditions of its BOI Registration, **DDC LAND, INC.** shall construct and sell Seventy Nine (79) units of low-cost mass housing for **Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna Project** based as follows:

Project Name	**Year**	**Volume** (No. of Units)	**Value (PhP)**
Santa Rosa Garden Villas III Phase 3	1	79	
	Total	**79**	

that **Santa Rosa Garden Villas III Phase 3** located at Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna, is duly registered with the Housing and Land Use Regulatory Board (HLURB)[1] and was issued a License to Sell, to wit:

Project Name	**Location**	**HLURB Certificate of Registration No./ Date Issued**	**HLURB License to Sell No./ Date Issued**	**No. of Units**
Santa Rosa Garden Villas III Phase 3	Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna	May 25,2015	May 25, 2015	1,008 lots/units and 8 lots only

that according to the Specific Terms and Conditions of its BOI Registration, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** is entitled to ITH for a period of Three (3) years from January 2016 or the actual start of commercial operations whichever is earlier, but in no case earlier than the date of registration; that **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)'s** ITH shall be limited only to the revenue generated from the registered project; and that revenues from units with selling price exceeding P3.0M shall not be covered by ITH.

In reply, please be informed that under Section 2.57.5 (B)(2) of Revenue Regulations 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 the Omnibus Investments Code of 1987. *(BIR Ruling No. 342-14 dated August 26, 2014)*

Accordingly, since **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** is a BOI-registered project, this Office is of the opinion that income payments received by **DDC Land, Inc.** in connection

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[1] HLURB Certificate of Registration No. dated May 25, 2015 amended Certificate of Registration No. dated February 4, 2013 due to inclusion of 75 lots with an area of 7,011 sq. m.

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with its housing project, **Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna.** (on the 79 low-cost mass housing units as mentioned in the Specific Terms and Conditions of its BOI Registration), are exempt from the creditable withholding tax imposed under RR No. 2-98, as amended by RR No. 6-2001, for a period of three (3) years from January 2016 or the actual start of commercial operations whichever is earlier but in no case earlier than the date of registration[2].

It must be emphasized, however, that the above exemption from creditable withholding tax covers only income directly attributable to revenues generated from **DDC Land, Inc.'s** BOI-registered activity **Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna**, involving Seventy Nine (79) low-cost mass housing units used solely for family home or dwelling purposes and not for commercial purposes such as leasing, retail stores, offices, etc. Furthermore, such exemption shall not cover revenues from units with selling price exceeding Three Million Pesos (P3,000,000.00)[3]. *(BIR Ruling No. 342-14 dated August 26, 2014)*

In the computation of ITH, interest income from in-house financing shall not be considered as part of the revenues generated from the registered activity.

Moreover, the entitlement of **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** to ITH is not automatic as such project has to comply with Items 2, 4, 5, 7, 8 a (ii)(iii)(iv)(v), 9, 10, 11 and 12 of the Specific Terms and Condition of its pertinent BOI Registration, *viz:*

(1) The enterprise shall submit a duly notarized Affidavit executed by a licensed engineer or architect indicating the area or the number of lots and actual units built and the construction costs on the development of the compliance project for its registered projects under the 2014 IPP onwards, upon ITH application;

The following documents relevant to the compliance project shall be attached to the Affidavit:

a. License to Sell;
b. Project Development Plan;
c. Development Permit; and
d. Verified Survey Return

(2) The enterprise shall submit a detailed report on low-cost mass housing units sold. Annual report shall be submitted to the BOI reflecting compliance to this condition;

(3) In the grant of incentives, the extent of the project's ITH entitlement shall be based on the project's ability to contribute to the economy's development based on the following parameters: (1) net value added; (2) job generation; (3) multiplier effect; and (4) measured capacity:

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[2] Movement of ITH period is subject to Art. 7 of E.O. 226 per BOI Specific Terms and Conditions No. 1

[3] Per HLURB License to Sell Nos lated May 25, 2015 issued for the project, Santa Rosa Garden Villas III Phase 3, the maximum selling price per House and Lot is and per lot

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a. Net Value Added should be at least 25%

	Yr-1
NVA	93%

b. Job Generation

	Number of Employees
	Yr-1
Total Employees	149

c. Investments and Timetable

Activity	**Schedule**	**Related Expenses**	**Cost (Php)**
Land acquisition	2008	Land Cost	
Secure necessary license/permit/ registration from the government/training costs	2015 (as amended)	Pre-operating Expenses	
Building/House Construction	March 2016	Building/House Construction Cost	
Start of Commercial Operations	January 2016	Working Capital (4 months)	
Total Project Cost			

d. Sales Revenues

Year	**Volume (No. of units)**	**Sales Value (Php)**
1	79	
Total	**79**	

Net income qualified for ITH availment shall not be a result of gross revenues exceeding 10% of the projected gross revenue represented by the firm in its application;

(4) The enterprise shall maintain books of account for this registered project separate from all its other operation/s and/or activity/ies;

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(5) The enterprise shall submit the list of cost items common to all its projects/activities (whether BOI or non-BOI-registered) and the methodology adopted in allocating the common costs between the registered and non-registered activity/ies;

(6) Interest Expense on the enterprise's liabilities shall be appropriately allocated between the registered and the non-registered activity/ies;

(7) In the computation of ITH. interest income from in-house financing shall not be considered as revenues generated from the registered activity;

(8) In the availment of ITH, the enterprise shall secure from the HLURB an endorsement that it has faithfully complied with the approved development plan and a "*Certificate of Good Housekeeping*";

(9) An application should be filed with the BOI Incentives Service within one (1) month from the 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 by SSS that the enterprise is in good standing in the remittances of SSS contributions of its employees. Further, any request for extension of the reckoning date of ITH availment should be filed prior to the scheduled date or within ninety (90) days from the occurrence of the fortuitous events and/or government delays;

(10) The enterprise must secure a Certificate of ITH Entitlement (CoE) from the BOI Legal and Compliance Service prior to the filing of ITR with the BIR, otherwise. ITH for that particular taxable year without CoE shall be forfeited;

(11) 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;

(12) The enterprise shall submit proof of compliance that at least twenty percent (20%) of the total subdivision area (estimated at 2,394 sq.m.) or total subdivision project cost (estimated at PhP 16.35M) 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 will be charged to a completed compliance project undertaken by the firm at Northville 5 Resettlement Project (Brgy. Batia, Bocaue, Bulacan). Otherwise, the ITH for that particular taxable year shall be deemed forfeited.

(13) The enterprise shall ensure (a) that its contractors are duly licensed by the Philippine Contractors Accreditation Board (PCAB) as required under Republic Act No. 4566 ("Contractors License Law"), and (b) that any construction activity,

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under its project and supervision, shall be undertaken in accordance with the rules and regulations prescribed by PCAB as well as all applicable laws;

(14) The enterprise shall submit to the BOI Legal and Compliance Service, on a semestral basis within fifteen (15) days from the end of each semester, a report on actual investments, employment, sales, production cost, actual ITH availed of for each year and other information that the Board may require at any given time with respect to the registered project.

Furthermore, BOI-registered enterprises enjoy no tax exemption/privileges other than those granted under E.O. 266. In this regard, under the terms and conditions of its BOI registration, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** was clearly granted 3-year ITH but such terms and conditions do not provide for any exemption from other taxes that it may be subject to on its business transactions. Thus, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** will remain subject to Value-Added Tax (VAT) and Documentary Stamp Tax (DST) on its sales of housing units pursuant to Sections 106 (A)(1)(a) and 196 of the Tax Code of 1997, as amended. *(BIR Ruling No. 329-14 dated August 14, 2014)*

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[4]. Thus, only the sales by **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 3-Brgys. Ibaba, Aplaya & Labas, Sta. Rosa, Laguna)** of housing units with selling price of not more than the aforementioned price ceiling shall be exempt from VAT. *(BIR Ruling No. 329-14 dated August 14, 2014)*

Pursuant to Section 4 of Republic Act (R.A.) No. 10708, **DDC Land, Inc.** 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, **DDC Land, Inc.** shall file with the 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 **DDC Land, Inc.** shall be constituted as a withholding agent for the government if its 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

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4 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.

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Chapter XIII and Section 57 of the Tax Code of 1997, as amended and implemented by RR No. 2-98, as amended.

Likewise, **DDC Land, Inc.** 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, **DDC Land, Inc.'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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JUN 24 2016

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