August 30, 2019

BIR RULING NO. 472-19

RA 9994; RMC 65-2012; RR 7-2010; RR 8-2010

H & D Group of Companies
G/F EBC 266 Malapantao cor. Kapok Sts.
Mandaluyong City

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 3, 2013 requesting for a ruling or clarification on whether or not the exemption provided for in Republic Act (RA) No. 9994, otherwise known as *"The Expanded Senior Citizens Act of 2010"* applies to the association dues, assessments and other charges paid by Senior Citizens to condominium corporations.

H & D GROUP OF COMPANIES, a property management company, requests to be clarified on the following:

1. Whether the payment of condominium association dues and payables by a Senior Citizen unit owner is subject to the 12% EVAT; and

2. Whether the payment of condominium association dues and payables by a Senior Citizen paying on behalf of a registered unit owner who is not a Senior Citizen is subject to the 12% EVAT.

Revenue Memorandum Circular (RMC) No. 65-2012 clarifies the taxability of association dues, membership fees, and other assessments/charges collected by condominium corporations from its members.

On the other hand, Section 4 of Revenue Regulations (RR) No. 07-2010, as amended by RR No. 8-2010, "*Implementing the Tax Privileges Provisions of Republic Act No. 9994, Otherwise Known as the 'Expanded Senior Citizens Act of 2010,' and Prescribing the Guidelines for the Availment Thereof*," provides that all establishments, supplying goods and services, as specified in the Act to Senior Citizens, for their exclusive use and enjoyment or availment, shall give a discount of twenty (20%) percent. Moreover, Section 10 of the same RR provides that sales to Senior Citizens of any goods and services, enumerated under Sections 4 and 5 of RR No. 07-2010, shall be exempt

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from the value-added tax. Sections 4 and 10 of RR No. 07-2010 state, as follows:

> "**SECTION 4.** ***Grant of Discounts to Senior Citizens***. — All establishments, supplying any of the following goods and services, as specified in the Act to Senior Citizens, for their exclusive use and enjoyment or availment, shall give a discount of twenty (20%) percent. The granting of discount herein mentioned shall apply to the sale of the following goods and services:
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> a. Medicines, including influenza and pneumococcal vaccines, and such other essential medical supplies, accessories and equipment to be determined by the Department of Health (DOH).
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> a.1. On all drug stores, hospital pharmacies, medical and optical clinics and similar establishments dispensing medicines, the discount for sales of drugs/medicines shall be subject to the Guidelines to be issued by the Bureau of Food and Drugs, Department of Health (BFAD-DOH), in coordination with the Philippine Health Insurance Corporation (PHILHEALTH). For this purpose, the term "medicines" shall refer to both prescription and nonprescription medicines, and articles approved by the BFAD-DOH, which are intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man; but do not include food and devices or their components, parts, or accessories.
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> b. On the professional fees of attending physician/s in all private hospitals, medical facilities, outpatient clinics and home health care services, where the discount shall be based on the compensation for services charged from the Senior Citizen.
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> c. On the professional fees of licensed professional health workers providing home health care services as endorsed by private hospitals or employed through home health care employment agencies, where the discount shall be based on the fees charged from the Senior Citizen.
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> d. On medical and dental services, diagnostic and laboratory fees in all private hospitals, medical facilities, outpatient clinics, and home health care services, in accordance with the rules and regulations to be issued by the DOH, in coordination with the Philippine Health Insurance Corporation (PhilHealth).
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> d.1. *"Medical services"* refers to hospital services, professional services of physicians and other health care professionals and diagnostic and laboratory tests that are necessary for the diagnosis or treatment of an illness or injury.
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> d.2. *"Dental services"* refers to oral examination, cleaning, permanent and temporary filling extractions and gum treatments, restoration, replacement or repositioning of teeth, or alteration of the alveolar or periodontium process of the maxilla and the mandible that are

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necessary for the diagnosis or treatment of an illness or injury.

d.3. *"Home health care service"* refers to health or supportive care provided to the Senior Citizen patient at home by licensed health care professionals to include but not limited to, physicians, nurses, midwives, physical therapists and caregivers.

e. On actual fare for land transportation travel in public utility buses (PUBs), public utility jeepneys (PUJs), taxis, Asian utility vehicles (AUVs), shuttle services and public railways, including Light Rail Transit (LRT), Mass Rail Transit (MRT), and Philippine National Railways (PNR).

f. On actual transportation fare for domestic air transport services and sea shipping vessels and the like, based on the actual fare and advanced booking.

g. On the utilization of services in hotels and similar lodging and establishments, restaurant and recreation centers.

g.1. For hotels and similar lodging and establishments, the discount shall be for room accommodation and other amenities offered by the establishment, such as, but not limited to, massage parlor, sauna bath, food, drinks and other services offered.

g.2. For this purpose, the term "hotel/hostel" shall refer to the building, edifice or premises or a completely independent part thereof, which is used for the regular reception, accommodation or lodging of travelers and tourists, and the provision of services incidental thereto, for a fee.

g.3. *"Lodging establishment"* shall refer to a building, edifice, structure, apartment or house including tourist inn, apartelle, motorist hotel and pension house engaged in catering, leasing or providing facilities to transients, tourists or travelers. The following are considered as lodging establishments:

g.3.1. *Tourist Inn* — a lodging establishment catering to transients, which does not meet the minimum requirement of an economy hotel.

g.3.2. *Apartelle* — a building or edifice containing several independent and furnished or semi-furnished apartments, regularly leased to tourists and travelers for dwelling on a more or less long-term basis and offering basic services to its tenants, similar to hotels.

g.3.3. *Motorist Hotel* — any structure with several separate units, primarily located along the highway, with individual or common parking space, at which motorists may obtain lodging and in some instance, meals.

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g.3.4. *Pension House* — a private, or family-operated tourist boarding house, tourist guest house or tourist lodging house, regularly catering to tourists, and/or travelers, containing several independent table rooms, providing common facilities, such as toilets, bathrooms/showers, living and dining rooms and/or kitchen and where a combination of board and lodging may be provided.

g.4. The term lodging establishment shall also include lodging houses, which shall mean such establishment are regularly engaged in the hotel business, but which, nevertheless, are not registered, classified and licensed as hotels by reason of inadequate essential facilities and services. Long term arrangement for residential purposes is not covered.

g.5. For restaurants, the discount shall be for the sale of food, drinks, dessert and other consumable items served by the establishments, including value meals and promotional meals offered for the consumption of the general public.

g.6. For this purpose, the term "restaurant" shall refer to any establishment offering the public, regular and special meals or menu, fast food, cooked food and short orders. Such eating places may also serve coffee, beverages, and drinks. Food and goods sold by establishments that are not restaurants are not covered, therefore not allowed to give the 20% discount.

g.7. For recreation centers, the discount shall be for the utilization of services in the form of fees, charges and rental facilities, such as, but not limited to, sports facilities and equipment.

h. On admission fees charged by theaters, cinema houses and concert halls, circuses, carnivals, and other similar places of culture, leisure and amusement, where the discount shall be on the admission fees charged by the said establishments;

i. On funeral and burial services for the death of Senior Citizens. The beneficiary or any person who shall shoulder the funeral and burial expenses of the deceased Senior Citizen shall claim the discount, such as casket, embalmment, cremation cost and other related services for the Senior Citizen upon payment and presentation of his death certificate;

xxx xxx xxx"

"SECTION 10. ***Exemption from VAT of the sale to Senior Citizens.*** — Sales of any goods and services under Section 4 of these Regulations to Senior Citizens shall be exempt from the value-added tax. To ensure the full entitlement of the Senior Citizen to the discount prescribed in the Act, the sellers are precluded from billing VAT to the Senior Citizen."

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Applying the foregoing law and issuance, payments by Senior Citizens of association dues, assessments and other charges to the condominium corporations and homeowners' associations are not entitled to the 20% discount and are subject to 12% VAT since these do not belong to the exclusive list of discounted and VAT-exempt sale of goods and services in RA No. 9994 and RR No. 07-2010.

However, RA No. 10963, otherwise known as "*Tax Reform for Acceleration and Inclusion Law*," which took effect on January 1, 2018, amended Section 109 (Y) of the National Internal Revenue Code (NIRC) of 1997, as amended, *viz.*:

> "**SEC. 109.** ***Exempt Transactions***. — (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:
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> xxx xxx xxx
>
> (Y) Association dues, membership fees, and other assessments and charges collected by homeowners associations and condominium corporations;
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> xxx xxx xxx"

IN VIEW OF THE FOREGOING, association dues, membership fees, and other assessments and charges collected on a purely reimbursement basis by homeowners associations and condominium corporations, whether payable by a Senior Citizen unit owner or a Senior Citizen paying on behalf of a registered unit owner who is not a Senior Citizen, are now exempt from the 12% EVAT pursuant to Section 109 (Y) of the NIRC of 1997, as amended by RA No. 10963, beginning January 1, 2018.

Please be guided accordingly.

Very truly yours,

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

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