**October 21, 2019**

# BIR RULING NO. 664-19

RMC No. 65-2012; RR No. 8-2005

*Cityland Wack Wack Royal Mansion, Inc.*
561 Wack Wack Royal Mansion
Wack Wack Road, Greenhills
Mandaluyong City 1550

Attention: *AAA*

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Gentlemen :

This refers to your letters dated October 27, 2009 and January 24, 2011 requesting for the following:

1) *"As a Condominium Corporation, under Section 30 of the Tax Code; thus, not subject to income tax. With this you plead exempting your corporation in paying income tax."*

2) *"The association dues, membership fees, and assessment/charges for power, water and maintenance that will be collected from its members are not includible in its gross income and not subject to income tax and not subject to Value-Added Tax."*

3) *"For the exemption from payment of withholding tax on the Meralco refund as imposed under Revenue Regulations No. 8-2005."*

It is represented that **CITYLAND WACK WACK ROYAL MANSION, INC.** with Tax Identification Number (TIN) 000-000-000, is a non-stock, non-profit condominium corporation duly organized under the provision of Republic Act No. 4726, otherwise known as "The Condominium Act" and other pertinent laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. AN096-00172 dated January 16, 1996; and that the purpose for which it was incorporated are the following:

1) *To promote the best interest of the unit owner/s in the condominium by*

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*maintaining close cooperation with the Developer, CITYLAND DEVELOPMENT CORPORATION, and other property owners, businessmen, and organizations in Mandaluyong, Metro Manila, as well as with proper government authorities and agencies;*

2) *To own, or hold title to the common areas in the condominium project known and identified as CITYLAND WACK WACK ROYAL MANSION which has been constituted pursuant to the provisions of Republic Act 4726, on the properties described in and brought under the operation of said act by the Master Deed with the Declaration of Restrictions executed by CITYLAND DEVELOPMENT CORPORATION;*

3) *To manage and operate the said condominium project pursuant to and in accordance with the provisions of R.A. No. 4726 and Master Deed with Declarations of Restrictions; and*

4) *To acquire, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer or otherwise invest, trade or deal in any manner, with real and personal property of every kind and description or any interest therein, and to manage the Resources of the Corporation as may be necessary for the accomplishment of the purposes of the Corporation, which shall include, but not be limited to the placement of the excess funds in the money market, time deposit, and treasury bills/notes provided that any proceeds derived therefrom shall not inure to the personal benefit of any particular member or officer but shall belong exclusively to the Corporation.*

In reply thereto, please be informed as follows —

While it is stated in its Amended Articles of Incorporation and Amended By-laws that **CITYLAND WACK WACK ROYAL MANSION, INC.** is a non-stock, non-profit condominium corporation created pursuant to RA 4726, however, it is not among those corporations contemplated under Section 30 of the National Internal Revenue Code of 1997, as amended. Hence, the income earned by **CITYLAND WACK WACK ROYAL MANSION, INC.** is subject to the regular corporate income tax imposed by Section 27 (A) of the same Code.

Anent the issue of taxability of condominium dues and fees, please be informed that the subject matter of your request has already been addressed by the issuance of **Revenue Memorandum Circular (RMC) No. 65-2012**, a copy of which is hereto attached for your easy reference, clarifying the taxability of association dues, membership fees, and other assessments/charges collected by condominium corporations from its members and tenants.

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Thus, it is no longer necessary to issue a ruling on the matter.

As to the issue of exemption from payment of withholding tax on the MERALCO refund, Section 2.57.5 of Revenue Regulations (RR) No. 2-98, as amended provides:

> *"SECTION 2.57.5. Exemption from Withholding. — The withholding of creditable withholding tax prescribed in these Regulations shall not apply to income payments made to the following:*
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> XXX XXX XXX
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> *(3) Corporations which are exempt from the income tax under Sec. 30 of the NIRC, to wit: the Government Service Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), the Philippine Charity Sweepstakes Office (PCSO) and the Philippine Amusement and Gaming Corporation (PAGCOR); However,* ***the income payments arising from any activity which is conducted for profit or income derived from real or personal property shall be subject to a withholding tax*** *as prescribed in these regulations*." (Emphasis and underscoring supplied)

Accordingly, since **CITYLAND WACK WACK ROYAL MANSION, INC.** is engaged in profitable activities under its Amended Articles of Incorporation, in particular, leasing, exchanging, selling or transferring real and personal property that would result in the imposition of taxes, the refund of the excess utility payments in its favor will give rise to or create a taxable income. Consequently, said refund is subject to the withholding tax prescribed under RR No. 8-2005.

Please be guided accordingly.

Very truly yours,

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

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