REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

R.A. No. 9904; R.A. No. 8424;
RMC No. 09-2013;
BIR Ruling No. 399-2013
OT - 0506 - 2020

SEP 08 2020

THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.
1338 Camarin Rd., Caloocan City 1428

Attention: **FRANCIA B. MANONGSONG**
BCHAI-President and Treasurer

Ma'am:

This refers to your letter, with attachment, as indorsed by the Regional Director, Revenue Region No. 5, Caloocan City, through 2nd Indorsement dated June 4, 2018, requesting for tax exemption of **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.**, pursuant to 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 **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.**, is a non-stock and non-profit residential homeowners' association, with Taxpayers Identification No. and duly registered with the Housing and Land Use Regulatory Board (HLURB) under Registration No. ; that it is situated and within the jurisdiction of Caloocan City; and that among the purposes for which the Association was incorporated are the following:

1. *To construct, manage, maintain and operate adequate facilities and services for its members;*
2. *To initiate and organize socio-cultural projects and activities to awaken community consciousness and belonging;*
3. *To promote, enhance and foster the development and improvement of the quality of life of the members through livelihood projects and other economic activities;*
4. *To acquire, accept donations, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer or otherwise invest, deal in or trade, in any manner permitted by law and the rules and regulations of government regulatory or licensing agencies, real and personal properties to every kind and description, or any interest therein, as may be necessary for the accomplishment of the purposes of the association.*
5. *To borrow or otherwise contract indebtedness and issue notes, bonds and other evidence of indebtedness and to secure payment therefore by mortgage, pledge or deed of trust, or through encumbrance on any or all of its then-owned or after acquire real or personal properties and assets as may be permitted by law.*
6. *To enter into, make, perform and carry out, or cancel and rescind contracts of every kind and for any lawful purpose with any person, firm, association, corporation, syndicate, domestic or foreign, or others;*

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7. *To do and perform any other acts and things, and to have and exercise any other powers which may be necessary, convenient and appropriate to accomplish the purpose for which the association is organized.*

and that the Office of the City Administrator, Engr. Oliver R. Hernandez, on May 10, 2017, states that:

> *"The City Government of Caloocan is doing its mandate under the law to provide the basic community services to The Bellefonte Community Homeowners Association, Inc. Those services, such as garbage collection and disposal, cleaning of streets, and other similar services, redound to the benefit of your homeowners. By this reason, we cannot issue a Certification stating the City's lack of resources to render basic services to your community."*

THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC. bases its claim for tax 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 environments.*
>
> *<u>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.</u> xxx"*

In reply thereto, we regret to inform you that **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.** does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. Since the requisite qualification that the **city or municipality concerned lacks resources to provide for basic services** is absent from the letter issued by the Office of the City Administrator, your request cannot be granted for lack of factual and legal basis. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.**, shall be subject to the applicable internal revenue taxes on its income from association dues, rentals of its facilities, trade business and other activities. Specifically:

<u>Income Tax</u>

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997, as amended, on its income derived from association dues and rentals of its facilities, 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

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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 15%[1] final withholding tax pursuant to Section 27 (D) (1) in relation to Section 57 (A), both of the Tax Code of 1997, as amended. 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, **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.**'s gross receipts from rentals of its facilities and gross receipts from operations not derived from association dues, membership fees, other assessments and charges collected in a purely reimbursement basis, shall be subject to the 12% VAT as imposed under Section 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(BB) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed Three Million Pesos (P3,000,000.00)[2].

It should be understood that **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, INC.** 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, **THE BELLEFONTE COMMUNITY HOMEOWNERS ASSOCIATION, 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 for services rendered which do not comprise income from association dues and rentals of their facilities.

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] As amended by Republic Act No. 10963.
[2] R.A. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 1, 2018.