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-0505-2020

SEP 08 2020

TOWN & COUNTRY EXECUTIVE VILLAGE
HOMEOWNERS' ASSOCIATION, INC.
Mahogany Avenue, Brgy. Mayamot,
Antipolo City 1870, Rizal

Attention: **ATTY. NICKY EARLE L. HORTILLAS**
Vice-President - TCEVHA

Gentlemen:

This refers to your letter dated April 18, 2017, requesting for a ruling confirming the exemption from income tax and value-added tax/percentage tax of **TOWN & COUNTRY EXECUTIVE VILLAGE 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 **TOWN & COUNTRY EXECUTIVE VILLAGE HOMEOWNERS' ASSOCIATION, INC.**, with Taxpayers Identification No.   , is a non-stock and non-profit residential homeowners' association duly registered with the Housing and Land Use Regulatory Board (HLURB) under Registration No.   ; that it is situated and within the jurisdiction of the City of Antipolo; 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 in accordance with the policies, guidelines, rules and regulations under existing laws and the Deed of Restrictions imposed on all lot/homeowners in the subdivision. Corollary thereto to maintain and operate the water works system (in the subdivision) which the Association is duty bound to accept from the developer of the subdivision;*
2. *To initiate and organize socio-cultural projects and activities which will waken 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, in accordance with the rules and regulations of the Home Financing Corporation and of the laws of the Republic of the Philippines;*
4. *To acquire, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer, or otherwise invest, trade or deal in, any manner permitted by law, real and personal property to every kind and description or any interest therein, as may be necessary for the accomplishment of the purposes of the Association;*

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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 of, or any encumbrance upon on any or all of its then owned or after-acquired real or personal properties and assets;*
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;*
7. *Any profits derived from the herein above mentioned activities shall not inure to any of the members or officers but shall be exclusively owned by the Association. The inhibitions against distribution of profits, shall not be construed to preclude reasonable compensation of officers, staff members and consultants for actual and substantive services rendered in the furtherance of the purposes of the Association, if such compensation is expressly allowed by the By-Laws;*
8. *To adopt, amend and repeal its By-Laws subject to the approval of the Home Financing Corporation; and*
9. *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 purposes for which the Association is organized.*

and that the City Planning and Development Office, through Ms. Rowena T. Zapanta, issued a Certificate dated April 7, 2017, stating that:

> *"This is to certify that **Town & Country Executive Village Homeowners Association, Inc.,** located in Brgy. Mayamot, Antipolo City is a homeowner's association registered with the Housing and Land Use Regulatory Board (HLURB), with Registration No. dated 14 November 2013, and provides the services for the cleanliness, safety, security and other basic services including maintenance for the common facilities needed by the members and/or association that fall within the purview of the "basic services community services and facilities", defined under Section 3 (d) of RA No. 9904 otherwise known as the Magna Carta for Homeowners and Homeowner's Association, as those referring to services and facilities that redound to the benefits of all homeowners, which complement the needed funds by the City Government of Antipolo in providing vital services to their members and help in the implementation of local government policies, programs, ordinances, and rules.*
>
> *This certification is being issued upon the request of Town & Country Executive Village Homeowners Association relative to its application for a tax exemption, pursuant to Bureau of Internal Revenue (BIR) Revenue Memorandum Circular (RMC) No. 9-2013, dated 29 January 2013, granting tax exemption for homeowner's association."*

The Office of the City Mayor of Antipolo on April 25, 2017 further certified that:

> *"As such and subject to fund availability, the homeowners' association has been providing the basic services and facilities that redound to the benefit of all homeowners foremost of which is providing security services, street and vicinity lights, maintenance, repairs and cleaning of the streets in the subdivision, garbage collection and disposal and other similar services and facilities.*
>
> *However, the homeowners' association lacks sufficient resources to fully provide such basic services notwithstanding its clear mandate under applicable laws, rules and regulations."*

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TOWN & COUNTRY EXECUTIVE VILLAGE 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.*
>
> *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"*

In reply thereto, we regret to inform you that **TOWN & COUNTRY EXECUTIVE VILLAGE HOMEOWNERS' ASSOCIATION, INC.** does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. The requisite of the law that the **city or municipality concerned lacks resources to provide for basic services** is absent from the two (2) certifications issued by the Office of the Mayor of the City of Antipolo, thus, your request cannot be granted for lack of factual and legal basis. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **TOWN & COUNTRY EXECUTIVE VILLAGE HOMEOWNERS' ASSOCIATION, 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 Tax

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue (NIRC) 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 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, **TOWN & COUNTRY EXECUTIVE VILLAGE HOMEOWNERS' ASSOCIATION, INC.**'s gross receipts from operations not derived from association dues, membership fees, rentals of its facilities, other assessments and charges on a purely reimbursement basis, shall be

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[1] As amended by Republic Act No. 10963.

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subject to the 12% VAT as imposed under Section 108 of the Tax Code of 1997, as amended, or to the 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 **TOWN & COUNTRY EXECUTIVE VILLAGE 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, **TOWN & COUNTRY EXECUTIVE VILLAGE 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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COPY FURNISHED:
REVENUE REGION NO. 7B – East NCR
Attention: Revenue District Office No. 45 – Marikina City

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[2] R.A. 10963 increased the VAT threshold from P1,919,500.00 to P3,000,000.00 effective January 1, 2018.