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-0382-2020

PILAR VILLAGE HOMEOWNERS ASSOCIATION, INC.
Clubhouse, No. 100 Mahogany Road, Pilar Village,
Las Piñas City, Metro Manila

Attention: **VENERANDA E. IBAÑEZ**
President

Gentlemen:

This refers to your application, as indorsed by the Regional Director, Revenue Region No. 8, Makati City, dated September July 10, 2017, requesting for Tax Exemption of **PILAR 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 **PILAR VILLAGE 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 Las Piñas City; and that among the purposes for which the Association was incorporated are the following:

1. *To enhance better understanding, foster goodwill, cooperation and mutual assistance among its members;*

2. *To enrich and develop the personality and worth of the individual members and their families by preserving the sanctity and inviolability of the family as the basic social institution.*

3. *To harness and utilize the talents and energies, the ideals and aspirations of the members in order to meet the critical problems and needs of the community, the town, and of the country as a whole;*

4. *To promote and coordinate the efforts of all its members with the other residents of the areas surrounding the Pilar Village for their common will;*

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5. *To sustain and imbue civic consciousness among its members, associates, and neighboring communities for the maintenance of peace, order and security in the area;*

6. *To provide and encourage incentives in health, social, moral, educational, cultural and economic advancements of its members and community in general;*

7. *To keep and maintain the prestige and good reputation of Pilar Village as a model community worthy to emulate, and;*

8. *To guide, channel and harmonize the activities of the members and their families in the achievement of those common goal with the help of God Almighty.*

and that the City Mayor of Las Piñas, Imelda T. Aguilar, dated September 18, 2018, states that:

*"The City of las Piñas acknowledges that it does not provide funds for basic services and facilities to **Pilar Village Homeowners Association, Inc.** located at Clubhouse, No. 100 Mahogany Road, Brgy. Pilar Village, Las Piñas City as enumerated under Section 3(d) of Republic Act 9904, to wit:*

1. *Security of the subdivision/village*
2. *Street and vicinity lights within the subdivision/village*
3. *Maintenance of their offices and other needs relative to their administration.*

*The City of Las Piñas recognizes the efforts of **Pilar Village Homeowners Association, Inc.** to assist the City in providing the above-cited basic services to all the members of their association and lauds their endeavor which complement, support and strengthen the City in providing vital services to their members and help implement local government policies, programs, ordinances, and rules."*

PILAR 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,

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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 **PILAR 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. Since the requisite qualification that the **city or municipality concerned lacks resources to provide for basic services** is absent from the certification issued by the Office of the Mayor of Dasmariñas City, your request cannot be granted for lack of factual and legal basis. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **PILAR VILLAGE 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:

Income Tax

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 sources other than association dues, membership fees, other assessments and charges collected in a purely reimbursement basis 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, **PILAR VILLAGE HOMEOWNERS ASSOCIATION, INC.**'s gross receipts from operations not derived from rentals of its facilities, 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].

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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.