REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Bureau of Internal Revenue Ruling

Republic Act (RA) No. 9904; RA No. 8424, as amended; Revenue Memorandum Circular (RMC) No. 9-2013; and RMC No. 53-2013		#336-2017

Date: July 12, 2017

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36 / 927-09-63

SYCIP GORRES VELAYO & CO.
6760 Ayala Avenue
1226 Makati City

Attention: <u>ATTY. ROMULO S. DANAO, JR.</u>
Partner, Tax Services

Gentlemen:

This refers to your letter dated December 27, 2013 requesting for a confirmatory ruling that the **AYALA ALABANG VILLAGE ASSOCIATON, INC.** is entitled to the exemption from all taxes under Republic Act (RA) No. 9904, otherwise known as the "Magna Carta for Homeowners and Homeowners' Associations", as enunciated in Revenue Memorandum Circular (RMC) No. 9-2013 which clarifies the taxability of association dues, membership fees and other assessments/charges collected by Homeowners' Association.

Documents submitted disclosed that the **AYALA ALABANG VILLAGE ASSOCIATION. INC.** is a residential homeowners' association with taxpayers identification number (TIN) and duly registered with the Securities and Exchange Commission (SEC) formerly as New Alabang Subdivision Association, Inc. under Registration No. ; it has amended its name to **AYALA ALABANG VILLAGE ASSOCIATION, INC.** upon its registration with the Home Financing Corporation under Registration No. - on January 27, 1986; and it is primarily organized to "promote and advance the best interest, general welfare and prosperity, as well as safeguard the well-being of the owners, lessees and occupants of the property in the New Alabang Subdivision in Muntinlupa, Metro Manila".

The Office of the City Mayor of the City of Muntinlupa certified[1] that it exercises territorial jurisdiction over the Ayala Alabang Village; that the Ayala Alabang Village Association, Inc. "renders basic community services and facilities that redound to the benefit of all homeowners, lessees and occupants and from which, by reason of practicality, no homeowner, lessee or occupant may be excluded such as, but not limited to: security; street and vicinity lights; maintenance, repairs and cleaning of streets; garbage collection and disposal; and other similar services and facilities"; and that the City Government of Muntinlupa lacks available resources to provide the foregoing basic community services and facilities pursuant to the mandate of applicable laws, rules and regulations.

[1] Certification from the Office of the City Mayor of Muntinlupa City dated May 9, 2014

In support of its request, **AYALA ALABANG VILLAGE ASSOCIATION, INC.** has completely submitted following documents:

1) Letter application for tax exemption;
2) Certified true copy of the Certificate of Registration with the HLURB;
3) SEC Certified true copy of the Articles of Incorporation;
4) HLURB Certified true copy of the By-Laws;
5) Certified true copy of the Annual Information Return and Financial Statements for the last three (3) years of operation;
6) Certification from the Office of the City Mayor of Muntinlupa City dated May 9, 2014;
7) BIR Certificate of Registration; and
8) Other pertinent documents.

AYALA ALABANG VILLAGE ASSOCIATIONS, INC. based its exemption on Section 18 of RA No. 9904.

In reply, please be informed that homeowners' associations are not tax exempt entities. For tax purposes, the association dues, membership fees, and other assessments/charges collected by a homeowners' association constitute income payments or compensation for beneficial services it provides to its members and tenants[2]. However, RA No. 9904 provides for tax relief as follows:

> "***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 environs.*
>
> *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.* (Underscoring supplied)
>
> *xxx xxx xxx*"

The law therefore specifically exempts from income tax, **association dues** and **income from rental of its facilities** as an incentive to the association for providing basic services to its members and homeowners which otherwise should be provided by the Local Government Unit (LGU).

From the foregoing, and considering that the Office of the City Mayor of Muntinlupa City certified that it lacks available resources to provide basic community services and facilities needed by the members of the Association, this Office rules that **AYALA ALABANG VILLAGE ASSOCIATION, INC.** is exempt from income tax, value-added tax or percentage tax, whichever is applicable, only on its income or receipts derived from association dues and rentals of facilitates or properties in the name of the Association, or are owned by the City of Muntinlupa and under administration of the **AYALA ALABANG VILLAGE ASSOCAITON, INC.**

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[2] Revenue Memorandum Circular (RMC) No. 9-2013

It is requested that a copy of this letter of exemption be attached to the annual income tax return which **AYALA ALABANG VILLAGE ASSOCATION, INC.** will file on or before the 15th day of the fourth month of each year.

Under Section 135 of the National Internal Revenue Code of 1997, as amended, any provision of existing general or special law to the contrary notwithstanding, the Revenue District Officer shall conduct an audit of the returns filed, the books of accounts and other pertinent records of **AYALA ALABANG VILLAGE ASSOCIATION, INC.** to determine compliance with the conditions set forth in this letter of tax exemption and tax liabilities, if any.

It should be understood that **AYALA ALABANG VILLAGE 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 National Internal Revenue Code of 1997, as amended.

Finally, **AYALA ALABANG VILLAGE ASSOCIATION, INC.** is also subject to the payment of the annual registration fee of Php500.00 as prescribed in Section 236(B) of the National Internal Revenue 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 being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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