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

R.A. No. 9904; R.A. No. 8424;
RMC No. 9-2013
BIR Ruling No. 399-2013;

#337-2018 3/7/2018
Date

AYALA WESTGROVE HEIGHTS
HOMEOWNERS ASSOCIATION, INC.
The Clubhouse, Pili Road,
Ayala Westgrove Heights,
Silang, Cavite 4118

Attention: **MS. MARIA NATALIE P. OCAMPO**
Property Manager

Gentlemen:

This refers to your letter dated October 24, 2013 requesting for a confirmatory ruling that the **AYALA WESTGROVE HEIGHTS HOMEOWNERS ASSOCIATION, INC. (AWHHA** for brevity) is entitled to the exemption from all taxes under 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 assessment/charges collected by Homeowners' Associations.

Documents submitted disclosed that **AWHHA**, with Taxpayers Identification No. , is a non-stock and non-profit residential homeowners association duly registered with the Housing and Land Use Regulatory Board under Registration No. and that the Office of the Municipal Mayor of the Municipality of Silang has issued the following certification in favor of **AWWHA**:

> "This is to certify that Ayala Westgrove Heights Homeowners Association, Inc. (the association) with registered address at Brgy. Inchican, Silang, Cavite is providing basic community services to the residents of Ayala Westgrove Heights as defined in Section 3(d) of Republic Act (RA) No. 9904, such as, but limited to security, streets, garbage collection and disposal, pest control, and other similar services and facilities.
>
> "This is to certify further that our office has no sufficient resources/budget to provide the above-mentioned services to the residents of Ayala Westgrove Heights."

AWHHA bases its request for exemption on Section 18 of R.A. No. 9904, which provides:

> "**SECTION 18.** ***Relationship with LGUs.*** – Homeowner's associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.

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> Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivision/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. xxx"

In reply thereto, we regret to inform you that **AWHHA** does not fall within the purview of those homeowners' associations which may be exempted under Section 18 of RA No. 9904. The requisite qualification that the **city or municipality concerned lacks resources to provide for basic services to its constituents in general** being absent from the Certification issued by the Office of the Municipal Mayor of the Municipality of Silang, your request cannot be granted for lack of factual and legal basis. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **AWHHA** 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 Taxes

It shall be subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code of 1997 on its income derived from association dues, rentals of their facilities, trade, business and other activities, 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 7 1/2% final withholding tax pursuant to Section 27(D)(1) in relation to Section 57 (A), both the Tax Code of 1997. 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, **AWHHA**'s gross receipts from operations derived from association dues, rentals of their facilities, trade, business and other activities shall be subject to the 12% VAT imposed under Sections 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(W) of the same Code if the gross sales or receipts from such sale of goods and services do not exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00).

It should be understood that **AWHHA** 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, **AWHHA** is also subject to the payment of the annual registration fee of PhP500.00 as prescribed under 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.

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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