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-0379-2020

JUL 03 2020

PONDEROSA LEISURE FARMS VILLAGE HOMEOWNERS' ASSOCIATION, INC.
Brgy. Ulat, Silang, Cavite

Attention: **NORISSA EILEEN RIDGWELL**
President

Madam:

This refers to your letter dated December 6, 2018, as indorsed by the Regional Director, Revenue Region No. 9A-CaBaMiRo, Sto. Tomas, Batangas, through 2nd Indorsement dated January 24, 2019, requesting for a ruling confirming the exemption from income tax and value-added tax/percentage tax of **PONDEROSA LEISURE FARMS 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 **PONDEROSA LEISURE FARMS 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 Certificate of Registration No. that it is situated and within the jurisdiction of Municipality of Silang, Cavite; 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 member;*

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 donation, purchase, own, hold, develop, lease, mortgage, pledge, exchange, sell, transfer or otherwise invest, deal in or trade, in any manner permitted by law, real and personal property of every kind and description, or any*

interest therein, as may be necessary for the accomplishment of the purposes of the Association.

5. *To borrow and 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 encumbrances on any and all of its then-owned or after acquired 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;*

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 Municipal Mayor of Municipality of Silang, Hon. Emilia Lourdes F. Poblete, on October 28, 2015, issued a Certification stating that:

*"Based on the documents presented, and on the available records at hand, the **PONDEROSA LEISURE FARMS VILLAGE HOMEOWNERS' ASSOCIATION, INC.,** located at Brgy. Pulong Bunga, Silang, Cavite, is a private subdivision, including all its road lots, open spaces and other facilities and amenities inside the said housing community.*

As it is a private subdivision, the Municipal Government of Silang, is not in any way providing material or financial assistance to the Homeowners Association (HOA) in the maintenance requirements of the subdivision, such as the repair of their roads, provision of water facilities, street lights, security, garbage collection, and other basic services to their residents/homeowners, as the same are being shouldered by the HOA out of their membership fees, monthly dues, rentals to their facilities, assessments and charges, and other fund raising activities solely intended to raise funds for the maintenance of their subdivision and their facilities."

PONDEROSA LEISURE FARMS 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

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> *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 **PONDEROSA LEISURE FARMS 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 qualification that the **city or municipality concerned lacks resources to provide for basic services** being absent from the certification issued by the Office of the Municipal Mayor of Municipality of Silang, Cavite, your request cannot be granted for lack of factual and legal basis. *(BIR Ruling No. 399-2013 dated November 7, 2013)*

Consequently, **PONDEROSA LEISURE FARMS 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 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.

Value-Added Tax or Percentage Tax

PONDEROSA LEISURE FARMS VILLAGE HOMEOWNERS' ASSOCIATION, INC.'s gross receipts from operations derived from association dues, membership fees, other assessments and charges on a purely reimbursement basis, shall not be subject to the 12% VAT imposed under Section 108 of the Tax Code of 1997, as amended, or 3% percentage tax imposed under Section 116 of the same Code.

It should be understood that **PONDEROSA LEISURE FARMS 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, **PONDEROSA LEISURE FARMS 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

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

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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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