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

Section 30; RA 10963; RA 9904;
RR No. 13-2018; RMC No. 9-2013;
BIR Ruling No. 402-2013;

OT- 0576-2020
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AFP OFFICERS VILLAGE ASSOCIATION, INC.
Bayani Rd., Fort Bonifacio, Western Bicutan,
Taguig City

Attention: **RADM ARTHUR B. GARRIDO (Ret)**
President

Gentlemen:

This refer to your letter dated February 3, 2014 requesting for a confirmatory ruling that the **AFP OFFICERS VILLAGE ASSOCIATION, INC.** is entitled to tax exemption as a non-stock, non-profit corporation under Section 30 of the 1997 Tax Code, as amended.

It is represented that **AFP OFFICERS VILLAGE ASSOCIATION, INC.**, with Taxpayer Identification Number (TIN) [illegible] is a non-stock and non-profit residential homeowner association duly organized under Section 2(a) of Executive Order No. 535 and Section 26 of Republic Act No. 8763; that it is registered with the Housing and Land use Regulatory Board (HLURB) and that among the purposes for which it is formed are:

1. *To foster a strong, effective and cohesive group of AFP officers who have acquired or have applied to acquire and been allocated residential lots at the AFP Officers Village in Taguig, Metro Manila, covered under Presidential Proclamation No. 461 dated September 29, 1965;*

2. *To coordinate with appropriate government offices and agencies for the survey and subdivision of the area covered by the above cited PP 461, and for the speedy conduct of bidding, issuances of order award, and tilting of lots therein in favor of Officer-members of the Association;*

3. *To work for an integrated land development of the area covered by the aforecited PP 461 into an exclusive residential subdivision with concrete roads, curbs and gutter, underground drainage, and water, electric and telephone facilities;*

4. *To secure the AFP Officers Village from squatters and other parties that may infringe on, or otherwise adversely affect, the rights of its members; and*

5. *To promote the welfare and protect the interests of its members.*

In reply thereto, please be informed that **AFP OFFICERS VILLAGE ASSOCIATION, INC.** which is a residential homeowner association is not among those non-stock, non-profit corporations contemplated under Section 30 of the Tax Code of 1997, as amended. *(BIR) Ruling No. 402-13* dated November 7, 2013)

Hence, **AFP OFFICERS VILLAGE ASSOCIATION, INC.** may not avail of the income tax exemption under Section 30 of the 1997 Tax Code, as amended. Please note, however, that Revenue Memorandum Circular (RMC) No. 9-2013 discussed the taxability of association dues, membership fees, and other assessments/charges collected by a homeowners' association from its homeowner-members and other entities, herein quoted as follows:

I. **Income Tax -** Section 18 of R.A. No. 9904 which exempts from taxation the association dues and income derived from rental subject to certain conditions is an implied recognition by Congress that such receipts are subject to tax under existing laws. Thus, the amounts paid in as dues or fees by homeowner-members of a homeowners' association form part of the gross income of the latter subject to income tax. This is because a homeowners' association furnishes its members with benefits, advantages and privileges in return to such payments. For tax purposes, the association dues, membership fees, and other assessment/charges collected by a homeowners' association constitute income payments or compensation for beneficial services it provides to its member and tenants. The previous interpretation that the assessment dues are funds which are merely held in trust by a homeowners' association lacks legal basis and is hereby abandoned.

   Moreover, since a homeowner's association is subject to income tax, income payment made to it are subject to applicable withholding taxes under existing regulation.

II. **Value-Added Tax (VAT)** and **Percentage Tax** – Association dues, membership fees, and other assessment/charges collected in purely reimbursement basis by a homeowners' association are not subject to VAT[1] or percentage tax. However, gross receipts from the operation not derived from rental of its facilities, association dues, membership fees, other assessment and charges collected in purely reimbursement basis shall be subject to the 12% VAT imposed under Section 108 of the Tax Code of 1997, as amended, or three percent (3%) 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 (₱3,000,000.00)[2].

RMC No. 9-2013 likewise provides that the association dues and income derived by **AFP OFFICERS VILLAGE ASSOCIATION, INC.** from rentals of its properties may be exempted from income tax provided that the following conditions are complied with pursuant to Section 18 of RA No. 9904:

a. The homeowners' association must be a duly constituted "Association" as defined under Section 3 (b) of RA No. 9904;

b. The local government unit having jurisdiction over the homeowners' association must issue certification identifying the basic services being rendered by the homeowners' association **and therein stating its lack of resources** to render such

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[1] Section 4.109-1(B)(1)(y) of Revenue Regulation (RR) No. 13-2018.
[2] Republic Act No. 10963 (TRAIN Law) increase the VAT threshold from ₱1,919,500 to ₱3,000,000.00 effective Jan. 01, 2018.

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services notwithstanding its clear mandate under applicable laws, rules and regulations. Provided further, that such services must fall within the purview of the "basic community services and facilities" which is defined under Section 3 (d) of RA No. 9904 as those referring to service and facilities that rebound to the benefit of all homeowners' and from which, by reason of practicality, no homeowner 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

c. The homeowners' association must present proof (i.e., financial statements) that the income and dues are 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.

In this case, there was no showing that the **AFP OFFICERS VILLAGE ASSOCIATION, INC.** met the above conditions for the entitlement of tax exemption under Section 30 of the 1997 Tax Code, as amended. In view of the foregoing, your request for the issuance of a Certificate of Tax Exemption pursuant to the Tax Code of 1997, as amended, is hereby denied.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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