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

E.O. 226; RR 2-98
BIR Ruling No. 342-14; BIR Ruling No. 329-14
#442-2016
12-19-2016

DDC LAND, INC.
Marbella 101 Condominium, Ground Floor, Unit 1
2223 Roxas Blvd., Pasay City 1300

Attention : **Engr. Edna R. Sutter**
President & CEO

Gentlemen:

This refers to your letter dated December 22, 2015, applying for tax exemption on the tax consequences of the Income Tax Holiday (ITH) granted by the Board of Investments (BOI) to **DDC LAND, INC.** under Executive Order (EO) No. 226 otherwise known as the "Omnibus Investments Code of 1987", for a period of three (3) years from the start of commercial operations/ selling.

Documents submitted disclosed that **DDC LAND, INC.**, with Taxpayer's Identification No. (TIN) , is a domestic corporation duly organized and existing under Philippine Laws; that it is registered with the Securities and Exchange Commission (SEC) bearing SEC Certificate of Registration No. ; that it is engaged in real estate development; that it is registered with the BOI as an Expanding Developer of Economic and Low-Cost Housing Project on a Non- Pioneer status for the mass housing project:

Project Name	Location	BOI Reg. No.	Date of BOI Registration	Start of Commercial Operation/ ITH	No. of Units
Santa Rosa Garden Villas III Phase 5	Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna		January 5, 2016	January 2016	

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that under the Specific Terms and Conditions of its BOI Registration, **DDC LAND, INC.** shall construct and sell One Hundred Twenty Six (126) units of low-cost mass housing for **Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna** as follows:

Project Name	Year	Volume (No. of Units)	Value (PhP)
Santa Rosa Garden Villas III Phase 5	1	126	
	Total	**126**	

that **Santa Rosa Garden Villas III Phase 5**, located at Brgys. Malusak, Caingin & Pook, Sta. Rosa, Laguna, is duly registered with the Housing and Land Use Regulatory Board (HLURB)[1] and was issued a License to Sell, to wit:

Project Name	Location	HLURB Certificate of Registration No./ Date Issued	HLURB License to Sell No./ Date Issued	No. of Units
Santa Rosa Garden Villas III Phase 5	Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna	May 25,2015	May 25, 2015	House & Lot and 16 lots only

that according to the Specific Terms and Conditions of its BOI Registration, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)** is entitled to ITH for a period of three (3) years from January 2016 or the actual start of commercial operations whichever is earlier, but in no case earlier than the date of registration; that **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)'s** ITH shall be limited only to the revenue generated from the registered project; and that revenues from units with selling price exceeding P3.0M shall not be covered by ITH.

In reply, please be informed that under Section 2.57.5 (B)(2) of Revenue Regulations No. 2-98, as amended, by RR No. 6-2001 implementing Section 57 (B) of the Tax Code of 1997, as amended, the withholding tax prescribed in the said Regulations shall not apply to income payments to persons enjoying exemption from the income tax provided by the Omnibus Investments Code of 1987. *(BIR Ruling No. 342-14 dated August 26, 2014)*

Accordingly, since **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)** is a BOI-registered project, this

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[1] HLURB Certificate of Registration No. dated May 25, 2015 amended Certificate of Registration NO. dated August 24, 2012 due to inclusion of some saleable lots with an area of 11,574 sq.m.

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Office is of the opinion that income payments received by **DDC Land, Inc.** in connection with its housing project, **Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna**, (on the 126 low-cost mass housing units as mentioned in the Specific Terms and Conditions of its BOI Registration), are exempt from the creditable withholding tax imposed under RR No. 2-98, as amended by RR No. 6-2001, for a period of three (3) years from January 2016 or the actual start of commercial operations whichever is earlier but in no case earlier than the date of registration[2].

It must be emphasized, however, that the above exemption from creditable withholding tax covers only income directly attributable to revenues generated from **DDC Land, Inc.'s** BOI-registered activity **Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna**, involving One Hundred Twenty Six (126) low-cost mass housing units used solely for family home or dwelling purposes and not for commercial purposes such as leasing, retail stores, offices, etc. Furthermore, such exemption shall not cover revenues from units with selling price exceeding Three Million Pesos (P3,000,000.00)[3]. *(BIR Ruling No. 342-14 dated August 26, 2014)*

In the computation of ITH, interest income from in-house financing shall not be considered as part of the revenues generated from the registered activity.

Moreover, the entitlement of **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)** to ITH is not automatic as such project has to comply with the Specific Terms and Condition of its pertinent BOI Registration.

Furthermore, BOI-registered enterprises enjoy no tax exemption/privileges other than those granted under E.O. 266. In this regard, under the terms and conditions of its BOI registration, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)** was clearly granted 3-year ITH but such terms and conditions do not provide for any exemption from other taxes that it may be subject to on its business transactions. Thus, **DDC Land, Inc. (Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna)** will remain subject to Value-Added Tax (VAT) and Documentary Stamp Tax (DST) on its sales of housing units pursuant to Sections 106 (A)(1)(a) and 196 of the Tax Code of 1997, as amended. *(BIR Ruling No. 329-14 dated August 14, 2014)*

In relation thereto, Section 109(1)(P) of the Tax Code of 1997 provides, that the sale of residential lot valued at One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (P1,919,500.00) and below, or house and lot and other residential dwellings valued at Three Million One Hundred Ninety Nine Thousand Two Hundred Pesos (P3,199,200.00) and below is VAT-exempt[4]. Thus, only the sales by **DDC Land, Inc.**

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[2] Movement of ITH period is subject to Art. 7 of E.O. 226 per BOI Specific Terms and Conditions No. 1

[3] Per HLURB License to Sell Nos. [redacted] dated May 25, 2015 issued for the project, Santa Rosa Garden Villas III Phase 5, the maximum selling price per House and Lot is [redacted] and [redacted] per lot only

4 The increase in the threshold amount for the sale or lease of goods or properties or the performance of services covered by Section 109 (P), (Q) and (V) of the 1997 Tax Code took effect on January 1, 2012, pursuant to Revenue Regulations No. 16-2011 dated October 27, 2011.

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(Santa Rosa Garden Villas III Phase 5-Brgys. Malusak, Caingin & Pooc, Sta. Rosa, Laguna) of housing units with selling price of not more than the aforementioned price ceiling shall be exempt from VAT. *(BIR Ruling No. 329-14 dated August 14, 2014)*

Pursuant to Section 4 of Republic Act (R.A.) No. 10708, **DDC Land, Inc.** is required to file its tax returns and pay its tax liabilities, on or before the deadline as provided under the 1997 Tax Code, as amended, using the electronic system for filing and payment of taxes of the BIR. Furthermore, **DDC Land, Inc.** shall file with the BOI a complete annual tax incentives report of its income-based tax incentives, value-added tax (VAT) and duty exemptions, deductions, credits or exclusions from the tax base, as may be provided under E.O. 226, within thirty (30) days from the deadline for filing of tax returns and payment of taxes.

It should be understood that **DDC Land, Inc.** shall be constituted as a withholding agent for the government if its acts as employer and any of its employees received compensation income subject to compensation withholding tax, or if it makes payments to individuals or corporations, subject to the withholding taxes as source as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended and implemented by RR No. 2-98, as amended.

Likewise, **DDC Land, Inc.** is required to file on or before the 15TH day of the fourth month following the close of its accounting period of a Profit and Loss Statement and Balance Sheet with the Annual Information Return under oath, stating its gross income and expenses incurred during the taxable year.

Finally, **DDC Land, Inc.'s** books of accounts and other pertinent records shall be subject to periodic examination by revenue enforcement officers of this Bureau for the purpose of ascertaining whether it has been complying with the conditions under which it has been granted tax exemption or tax incentives and its tax liability, if any, pursuant to Section 235 of the Tax Code of 1997, as amended.

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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