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

RA No. 7279; RA7160
BIR Ruling No. 093-12
#012-2016
1-8-2016

ATTY. RAFAELITO M. GARAYBLAS
Secretary to the Mayor
City of Manila

Sir:

This is to acknowledge your letter dated dated February 15, 2013, requesting for a ruling that the sale by Salvacion and Herminia Rodriguez to the City of Manila by virtue of Expropriation Order intended for the latter's socialized housing program is exempted from payment of capital gains tax and other fees allowed under R.A. No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

Documents submitted that Salvacion S. Rodriguez and Herminia S. Rodriguez are the absolute registered owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for the Metro Manila, District 1, containing an area of Seven Hundred Thirty Eight square meters and 90 decimeters (738.90 sq. m.) more or less; that on April 8, 2010, a Decision was rendered by the Regional Trial Court of Manila, Branch 3 expropriating the said parcel of land pursuant to City of Manila Ordinance No. 8031 dated March 2, 2001 for the purpose of awarding the said property to qualified and bonafide occupants[1] thereat pursuant to the Land for the Landless program of the City of Manila which became final and executory on July 23, 2010; and that in the same decision, the Court issued an order fixing the just compensation in the amount of : pesos (P) per square meter for the land and Three Hundred Thousand pesos (P) for the improvement.

In reply, please be informed that, as a general rule, the involuntary transfers of real properties, including expropriation sale, are subject to applicable taxes, depending on whether the subject properties are classified as capital assets or ordinary assets. The exception, however, is those provided under Section 20 of R.A. No. 7279, in relation to Section 19 of R.A. No. 7160.

01 037891

[1] See annex pursuant to Resolution No. 017 s. 2013 of The City Tenants Security Committee of the City Of Manila

Section 19 of Republic Act No. 7160 provides the basis for the exercise of the power of eminent domain of local government, which provides that:

> *"SECTION 19. Eminent Domain. — A local government unit may, through its chief executive and acting pursuant to an ordinance, exercise the power of eminent domain for public use, or purpose or welfare for the benefit of the poor and the landless, upon payment of just compensation, pursuant to the provisions of the Constitution and pertinent laws: Provided, however, That the power of eminent domain may not be exercised unless a valid and definite offer has been previously made to the owner, and such offer was not accepted: Provided, further, That the local government unit may immediately take possession of the property upon the filing of the expropriation proceedings and upon making a deposit with the proper court of at least fifteen percent (15%) of the fair market value of the property based on the current tax declaration of the property to be expropriated: Provided, finally, That, the amount to be paid for the expropriated property shall be determined by the proper court, based on the fair market value at the time of the taking of the property."*

As an instrumentality of the government, a local government unit, which acts for the purpose of accomplishing government policies and objectives and extending essential services to the people, performs governmental and not proprietary functions. (Peoples' Homesite and Housing Corporation vs. Court of Industrial Relations, 150 SCRA 296, 310 [1987]) Thus, in line with the foregoing, it is a declared State policy as laid down in Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992", to provide decent and affordable housing to the underprivileged and homeless citizens. *(BIR Ruling No. 093-12 dated February 16, 2012)*

Lastly, the pertinent portion of Section 20 of RA No. 7279, reads:

> *"Sec. 20. Incentives for the Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further reduce the cost of housing units for the benefit of the underprivileged and homeless, the following incentives shall be extended to the private sector:*
>
> xxx xxx xxx
>
> *"(d) Exemption from the payment of the following:*
>
> *(1)* . . .
>
> *(2) Capital gains tax on raw lands used for the project;*
>
> xxx xxx xxx"

037891

Pursuant to the aforementioned provision, the owner of the raw land is exempt from the payment of capital gains tax on the conveyance although involuntarily of the above-described property in favor of the City of Manila for use in its socialized housing project. Upon application for exemption, a lien on the title of the land shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the same is to be applied or is being applied to socialized housing project pursuant to R.A. 7279. *(BIR Ruling No. 093-12 dated February 16, 2012)*

However, the sale is subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997 based on the consideration or the fair market value, whichever is higher. *(BIR Ruling No. 093-12 dated February 16, 2012)*

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

K-1-JRC

037891
DEC 28 2015

BAMBANG DIZON NEIGHBORHOOD ASSOCIATION
Dizon Street, Tondo II, Manila

1	RODELIA C. ONG	2-A	1-B	Pcs 2529 (portion)
2	BENJAMIN H. YU	4	1-B	Pcs 2529 (portion)
3	PEDRO R. HERVERA	5	1-B	Pcs 2529 (portion)
4	ANTHONY L. ALAGDE	6	1-B	Pcs 2529 (portion)
5	JUDE CORNELIO L. ALAGDE	7	1-B	Pcs 2529 (portion)
6	DOMINGO D.L. ALAGDE	8	1-B	Pcs 2529 (portion)
7	MICHAEL JOSEPH L. ALAGDE	9	1-B	Pcs 2529 (portion)
8	GLORIA B. SIGNO	10	1-B	Pcs 2529 (portion)
9	CECILIA M. TABLIZO	11	1-B	Pcs 2529 (portion)
10	JULIETA H. CAPISTRANO	12	1-B	Pcs 2529 (portion)
11	JOVITO M. JIZ DE ORTEGA	14	1-B	Pcs 2529 (portion)
12	RODOLFO M. VILLAPANA	15	1-B	Pcs 2529 (portion)
13	FELISA G. BAGTAS	16	1-B	Pcs 2529 (portion)
14	ANTONIA R. APOLONIO	17	1-B	Pcs 2529 (portion)
15	MARCOS G. PANAGA	18	1-B	Pcs 2529 (portion)
16	SONIA A. LAGMAN	20	1-B	Pcs 2529 (portion)
17	MARIA DOLORES L. CAPISTRANO	21	1-B	Pcs 2529 (portion)
18	REYNALDO M. CARAIG	22	1-B	Pcs 2529 (portion)
19	ALEXANDER H. REYES	24	1-B	Pcs 2529 (portion)
20	MYRNA G. ROQUE	26	1-B	Pcs 2529 (portion)
21	NORMA C. PALMA	27	1-B	Pcs 2529 (portion)
22	ROMEO C. ALVAREZ	28	1-B	Pcs 2529 (portion)
23	FRANCISCO P.GARCIA	29	1-B	Pcs 2529 (portion)

037891