January 10, 2019

BIR RULING NO. 088-19

RA No. 7279; BIR Ruling No. 034-15

Samahan Tungo sa Kaunlaran ng Komunidad
ng Catmon (STKKC) Homeowners Association, Inc.
219-F Hernandez St., Sitio 6 Gov. Pascual,
Brgy. Catmon, Malabon City 1470

Attention: *AAA*

Gentlemen :

This refers to your letter dated March 1, 2018, requesting exemption from capital gains tax (CGT), relative to the transfer of title of land from **SAMAHAN TUNGO SA KAUNLARAN NG KOMUNIDAD NG CATMON (STKKC) HOMEOWNERS ASSOCIATION, INC.** (**"STKKC HOA"** for brevity), in favor of its qualified member-beneficiary pursuant to Republic Act No. 7279 otherwise known as the "Urban Development and Housing Act of 1992."

It is represented that **STKKC HOA**, with Taxpayer's Identification No. 000-000-000-000, is the registered owner of the parcel of land located at Brgy. Catmon, Malabon City and covered by Transfer Certificate of Title (TCT) No. M-00000 issued by the Registry of Deeds of Malabon City; that it is a non-stock, non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. NCR-HOA 17-0268; that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP) with Sitro Gabay at Kalinga (SGKI) * as Originator; that said project was taken-out/paid on July 31, 2007 in the amount of Eleven Million Five Hundred Sixty Two Thousand One Hundred Ten Pesos and Fifty Five Cents (P11,562,110.55), involving One Hundred Seventy Eight (178) beneficiaries; that on October 17, 2017, a Deed of Absolute Sale was executed by **STKKC HOA** in favor of its member-beneficiary, to wit:

Member-Beneficiaries	TCT No.	Lot Area	Address
BBB	M-00000	22 sq.m.	Brgy. Catmon, Malabon City

and that BBB, a member-beneficiary, is now in the process of transferring the purchased

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property to her name.

In reply, please be informed that the transfer by **STKKC HOA** in favor of the abovenamed member-beneficiary who has made full payment of her purchased subdivided lot is not subject to either the CGT imposed under Section 27 (D) (5) of the Tax Code of 1997, as amended, or the creditable withholding tax imposed under Revenue Regulations No. 2-98, as amended, considering that the said transfer of property is made without any consideration and effected only as a formality to finally effect the transfer of the said property to its member-beneficiary, BBB, who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its member-beneficiary who actually owns the aforedescribed lot.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, as amended, since there is no donative intent on the part of the Association to donate the said property to said member-beneficiary, considering that it could not donate property the ownership of which already belongs to the member-beneficiary himself. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is noted that under Section 196 of the Tax Code of 1997, as amended, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold shall be granted, assigned, transferred, or otherwise conveyed to a purchaser or purchasers or to any other person or persons designated by such purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchaser is actually the owner thereof. Besides, no consideration is involved in said transaction upon which the tax imposed could be based.

Accordingly, the transfer of title of the subject lot in favor of the above-named beneficiary is not subject to DST under Section 196 of the Tax Code of 1997, as amended. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of P15.00 [1] pursuant to Section 188 of the Tax Code of 1997, as amended. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO 15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction in this case does not exceed P450,000.00 for house and lot and P180,000.00 for lot only for each qualified beneficiaries. *(BIR Ruling No. 034-2015 dated February 5, 2015).*

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.

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Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. The old DST rate of P15.00 shall be used since the transaction took place prior to the effectivity of RA 10963 or the TRAIN Law.

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