REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA7279
BIR Ruling No. 473-2014
#093-2016 3-16-2016

C.S. GARCIA CONSTRUCTION
23 Pelayo St., BF Homes, Quezon City

Attention: **CRISANTO S. GARCIA**
Owner/Manager

Gentlemen:

This refers to your letter dated May 26, 2015, requesting for the issuance of Certificate of Tax Exemption for the AFP-PNP Housing Program in Smart Homes Housing Project, Brgy. Trinidad, Surigao City, Surigao del Norte.

Documents submitted show that the following individuals, collectively referred to as Landowners, are the registered owners of two (2) Transfer Certificates of Title (TCT), to wit:

Landowners	TCT	Lot No.	Area (sq. m.)
Virginia M. Eviota, Leticia M. Eviota, Arnolfo M. Eviota, Diomedes M. Eviota, (married to Marietta Egay) and Teresita M. Eviota, (married to Paquito Ato)		2911	26,578
Benjamin M. Sun, (married to Rosemarie C. Sun)		3445	10,800
		Total	37,378

all issued by the Registry of Deeds for the Province of Surigao del Norte.

The following Deeds of Absolute of Sale conveying the abovementioned properties were executed by the respective landowners to the National Housing Authority (NHA) (TIN:), a government corporation organized and existing by virtue of Presidential Decree No. 757, as amended:

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Landowners	Date of Deed of Absolute Sale	TCT	Area (sq. m.)	Consideration (PhP)
Virginia M. Eviota, Leticia M. Eviota, Arnolfo M. Eviota, Diomedes M. Eviota, (married to Marietta Egay) and Teresita M. Eviota, (married to Paquito Ato)	September 15, 2014		26,578	
Benjamin M. Sun, (married to Rosemarie C. Sun)	September 15, 2014		10,800	
		Total	37,378	

On October 28, 2014, a Contract Agreement was executed by and between C.S. GARCIA CONSTRUCTION (TIN , a single proprietorship, owned by Crisanto Sia Garcia, which is duly registered with the Department of Trade and Industry (DTI) under Certificate No. dated February 7, 2011; and AFP Housing Homeowners Association, Inc. and PNP Housing Homeowners Association, Inc., a homeowner's organization registered with the Housing and Land Use Regulatory Board (HLURB), whereby C.S. GARCIA CONSTRUCTION has agreed to sell to AFP Housing Homeowners Association, Inc. and PNP Housing Homeowners Association, Inc.'s individual members the developed lots and completed housing units covered by the said Titles under the Community Initiative Approach Program (CIAP) of the NHA for (P) for every developed lot and completed housing unit per family.

Moreover, on November 4, 2014, a Memorandum of Agreement (MOA) for 500 developed lots and completed housing units was executed by and among C.S. GARCIA CONSTRUCTION as the landowner/developer, AFP Housing Homeowners Association, Inc. and PNP Housing Homeowners Association, Inc., as the beneficiaries[1], and the NHA, as the implementing government agency for the AFP/PNP Housing Program as cited under Administrative Order No. 9 dated April 11, 2011.

Under the MOA, members of the AFP Housing Homeowners Association, Inc. and PNP Housing Homeowners Association, Inc., shall be provided by the NHA with a financial grant for the acquisition house and lot packages in the AFP/PNP Housing Project through the CIAP in the amount of Php for a House and Lot Package of Forty square meters (40.00 sq.m) lot and Twenty Two square meters (22.00 sq.m.) floor area.

On April 14, 2015, C.S. GARCIA CONSTRUCTION and the NHA executed a Deed of Conveyance, whereby the former, transferred and conveyed to the latter the Five Hundred (500) developed lots and housing units with an aggregate area of Twenty Thousand Five Hundred Three square meters (20,503 sq.m.) portion of the subject properties covered by TCT Nos. [2] and at an agreed price of and Pesos (P

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[1] See Annex list of beneficiaries consisting of seventeen (17) pages
[2] previously sold by Virginia M. Eviota, et al., to NHA
[3] previously sold by Benjamin M. Sun to NHA

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA) No. 7279, pertinent portions of which state that:

> *"Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title.*
>
> *"Sec. 20. Incentives for 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) Project-related income taxes;*
>
> *(2) Capital Gains Tax on raw lands used for the project;*
>
> *(3) Value-added tax for the project contractor concerned;"*

Moreover, pertinent portions of RMC No. 42-01 dated October 5, 2001, provide, viz.:

> xxx xxx xxx
>
> *A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:*
>
> *(1) . . .*
>
> *(2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA," the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.*
>
> xxx xxx xxx

Sale by the Landowners to NHA

The owner of the raw land is exempt from the payment of capital gains tax or the withholding tax under Revenue Regulations No. 2-98, as amended, on the conveyance of the parcel of land for use in the aforesaid socialized housing project. (BIR Ruling No. 473-2014 dated November 24, 2014)

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Accordingly, the sale by the landowners to NHA of the ***subject properties covered by TCT Nos.*** ***and*** s exempt from the payment of capital gains tax imposed under Sec. 24 (D) of the Tax Code of 1997, as amended or creditable withholding tax under Revenue Regulations No. 2-98, as amended.

The exemption from documentary stamp tax of NHA in connection with any of its socialized housing project extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale, either on NHA or the party with which NHA is transacting. Accordingly, the transfer by the landowners to NHA of the ***subject properties covered by TCT Nos.*** ***and*** , is, likewise, exempt from the payment of documentary stamp tax under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 473-2014 dated November 24, 2014)

Moreover, under Section 109 (1) (P) of the Tax Code of 1997, as amended by R.A. 9337, the sale of real properties utilized for low-cost and socialized housing as defined by R.A. No. 7279 shall be exempt from value-added tax (VAT), thus. the sale of the ***subject properties covered by TCT Nos.*** ***and*** by the landowner to NHA is exempt from the imposition of VAT.

Upon application for exemption, a lien on the titles of the land shall be annotated by the Register of Deeds having jurisdiction over the properties, to the effect that the same is to be applied or is being applied to socialized housing project pursuant to RA 7279.

Please take note that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect transfer of the land in the name of the buyer without the necessary certificate of authority to register issued by this Bureau. In this regard, this ruling shall be presented to the Revenue District Office (RDO) concerned in order for the latter to issue the Certificate Authorizing Registration (CAR) after the submission of the requirement provided under RMO 15-2003.

Transaction between C.S. GARCIA CONSTRUCTION and NHA

The developer of properties who sell its properties for use in a socialized housing project are exempt from the payment of project-related income taxes.

Such being the case, the sale of C.S. GARCIA CONSTRUCTION to NHA of ***500 developed lots on the 20,503 sq.m.*** portion of the subject properties is exempt from the capital gains tax, project-related income taxes and consequently from withholding tax. Upon issuance of this letter of exemption, and upon registration of the documents of sale, a lien on the Certificates of Title of the land to be issued in the name of the NHA shall be caused to be annotated by the Register of Deeds having jurisdiction over the properties, to the effect that the said properties shall be used for socialized housing pursuant to R.A. No. 7279. (BIR Ruling No. 473-2014 dated November 24, 2014)

The exemption from documentary stamp tax of NHA in connection with any of its socialized housing project extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale, either on NHA or the party with which NHA is transacting. Accordingly, the transfer by C.S. GARCIA CONSTRUCTION to NHA of ***500 developed lots on the 20,503 sq.m.*** portion of the

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subject properties is concerned, is likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 473-2014 dated November 24, 2014)

Pursuant to Section 20 (d)(3) of RA 7279, the transfer/sale by C.S. GARCIA CONSTRUCTION ***500 developed lots on the 20,503 sq.m.*** portion of the subject properties in favor of NHA shall be exempt from VAT. However, its purchases of goods/articles shall be subject to VAT, even if the said purchases are to be used for the socialized housing project, since VAT is an indirect tax which can be passed on by the seller of the goods/services. Moreover, it shall be understood that C.S. GARCIA CONSTRUCTION must issue non-VAT official receipts on its gross receipts from the said socialized housing project.

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

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MAR 10 2016