REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7279
BIR Ruling No. 426-12
4011-2018

1-10-2018

NATIONAL HOUSING AUTHORITY
Quezon Memorial Elliptical Road,
Diliman, Quezon City

Attention: **Lorna M. Serasne**
Group Manager
Visayas Management Office

Gentlemen:

This refers to your letter dated December 19, 2013 requesting for a ruling confirming your opinion that the services rendered by **NDM Equipment Rental and Construction** in connection with the Land Development of Tacloban North Resettlement Project, Phase I located at Brgy. Kawayan, Tacloban City, a socialized housing project of the National Housing Authority (NHA), is exempt from value-added tax (VAT).

It is represented that the Land Development of Tacloban North Resettlement Project, Phase I located at Brgy. Kawayan, Tacloban City, is a socialized housing project of the NHA to be undertaken by **NDM Equipment Rental and Construction,** a sole proprietorship registered and existing under the laws of the Philippines, with business address at Lot 21, San Gerardo Heights Subd., Nula-tula, Barangay 74, Tacloban City; that the contract price for the said Project is Pesos and (PhP); and that the scope of works for the Project includes Earthworks, Roadworks, Drainage Works, Water System, Survey Works, Off-Site Works and Miscellaneous Works.

In reply, please be informed that your request for VAT exemption on the payment of services fees to **NDM Equipment Rental and Construction** relative to the Land Development of Tacloban North Resettlement Project, Phase I, which comprises Earthworks, Roadworks, Drainage Works, Water System, Survey Works, Off-Site Works and Miscellaneous Works, cannot be granted for lack of legal basis.

Section 20 of R.A. No. 7279, states that:

> "Sec. 20. Incentives for the Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further

#011-2018
1-10-2018

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;

XXX XXX XXX

(2) Value-added tax for the project contractor concerned;"

Section 3 (r) of R.A. 7279 defines "socialized housing" as follows:

"(r) "Socialized housing" refers to housing programs and projects **covering houses and lots or homelots only** undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and such other benefits in accordance with the provisions of this Act;" (Underscoring supplied)

In this case, **NDM Equipment Rental and Construction** has been engaged by the NHA to undertake the land development of Tacloban North Resettlement Project. Phase I (including Earthworks, Roadworks, Drainage Works, Water System, Survey Works, Off-Site Works and Miscellaneous Works). It must be noted, however, that a purely land development project does not fall within the definition of a "socialized housing" under Section 3 (r) of R.A. 7279. It is apparent that the tax incentive provision, granting exemption from project related taxes and VAT, is limited to project contractors on their construction and development of houses and lots or homelots only, with a view to reduce the cost of housing units for the benefit of the underprivileged and homeless. (*BIR Ruling No. 426-12* dated June 25, 2012)

It should be remembered that laws and statutes granting tax exemptions are strictly construed against the taxpayer. Exemptions are never presumed and the burden is upon the taxpayer to establish his right to exemption beyond reasonable doubt.[1] In the case of *Mactan Cebu International Airport Authority v. Marcos*[2], the Supreme Court held:

---

[1] *Dimaampao, Japar B., Tax Principles and Remedies, Second Edition (2005).*
[2] *G.R. No. 120082, 11 September 1996, 261 SCRA 667*

#011-2018
1-10-2018

"Accordingly, tax statutes must be construed strictly against the government and liberally in favor of the taxpayer. But since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting the exemptions are thus construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. A claim of exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken. Elsewise stated, taxation is the rule, exemption therefrom is the exception,"

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1

012505