July 24, 2018

BIR RULING NO. 1100-18

Republic Act No. 7279; Sections 32 (B) (7) (b) and 196 of the NIRC of 1997, as amended; BIR Ruling No. 493-2018

Office of the Secretary to the Mayor
3rd Floor, Main Building, Quezon City Hall
Elliptical Road, Quezon City

Attention: *Tadeo M. Palma*
Secretary to the Mayor
Chairman, STF on Socialized Housing &
Development of Blighted Areas

Gentlemen :

This refers to your letter dated February 06, 2017, requesting for the issuance of a ruling exempting the Quezon City Local Government Unit from the payment of taxes and other fees for the transfer of socialized housing units from the Quezon City Government to Bistekville-1 Socialized Housing beneficiaries pursuant to Republic Act (RA) No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

Background:

On May 02, 2011, Resolution No. SP-5124, S-2011 was passed by the Quezon City Council authorizing the City Mayor, Honorable Herbert M. Bautista, to enter into a Joint Venture Agreement with Habitat for Humanity Foundation, Inc. for the construction of socialized houses at the Quezon City Socialized Housing Project ("the Project") situated in Barangay Payatas, Quezon City, owned by the Quezon City Government, containing an area of Fifteen Thousand Six Hundred Fifty-One (15,651) square meters, more or less, and covered by Transfer Certificate of Title (TCT) No. 004-2011003559 of the Registry of Deeds of Quezon City.

To start the implementation and development of the Project, the Quezon City Government forged a partnership with Habitat for Humanity Foundation, Inc. and Home Development Mutual Fund (HDMF) through a Memorandum of Understanding (MOU) dated October 04, 2011.

Thereafter, pursuant to Resolution No. SP-5124, S-2011 dated May 02, 2011, a

Copyright 2020 CD Technologies Asia, Inc.

Memorandum of Agreement (MOA) was entered into by and between the Quezon City Government and Habitat for Humanity Foundation, Inc. on December 14, 2012. Under the said MOA, Habitat for Humanity Foundation, Inc. has agreed to provide the housing component of the Quezon City Government in the Project labeled as "Bistekville-1." Habitat for Humanity Foundation, Inc. shall be primarily responsible for the complete construction of the socialized housing units of the Project. As such, Habitat for Humanity Foundation, Inc., for its own account, shall be responsible for the following, among others:

1. Build houses, in accordance with approved building plans and specifications, using its adapted principles and mode of constructions.

2. Turn over the completed housing units to the Quezon City Government, for final inspection, acceptance and subsequent awarding to qualified beneficiaries.

In view thereof, you now request for the issuance of a ruling exempting the Quezon City Local Government Unit from the payment of taxes and other fees for the transfer of socialized housing units from the Quezon City Government to Bistekville-1 Socialized Housing beneficiaries pursuant to RA No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

In reply thereto, please be informed that Sections 2 and 4 of RA No. 7279, provide as follows:

> *"Sec. 2. Declaration of State Policy and Program Objectives. — It shall be the policy of the State to undertake, in cooperation with the private sector, a comprehensive and continuing Urban Development and Housing Program, hereinafter referred to as the Program, which shall:*
>
> xxx xxx xxx
>
> *(f) Improve the capability of local government units in undertaking urban development and housing programs and projects.*
>
> xxx xxx xxx
>
> *Sec. 4. Coverage. — The Program shall cover all lands in urban and urbanizable areas, including existing areas for priority development sites, and in other areas that may be identified by the local government units as suitable for socialized housing."*

As a political subdivision of the state which acts for the purpose of accomplishing government policies and objectives and extending essential services to the people, the Quezon City Local Government Unit is exercising governmental and not proprietary functions when it transfers the socialized housing units to Bistekville-1 Socialized Housing beneficiaries. Thus, in line with the foregoing and since it is a declared State

Copyright 2020 CD Technologies Asia, Inc.

policy as laid down in RA No. 7279 to provide decent and affordable housing to the underprivileged and homeless citizens and to improve the capability of local government units in undertaking urban development and housing programs and projects, the distribution or transfer of socialized housing units to Bistekville-1 Socialized Housing beneficiaries is exempt from capital gains tax (CGT). The Quezon City Local Government Unit, which is tasked to implement the distribution of the housing units, shall not be subject to CGT, for it is only performing a mandated governmental function of providing shelter to the Bistekville-1 Socialized Housing beneficiaries.

However, the distribution or transfer of socialized housing units to Bistekville-1 Socialized Housing beneficiaries is subject to the documentary stamp tax (DST) imposed under Section 196 of the National Internal Revenue Code of 1997, as amended, in accordance with Revenue Regulations (RR) No. 11-97, as amended by RR No. 17-2001. The DST herein imposed, however, shall be based on the actual consideration considering that one of the contracting parties is the Government pursuant to Revenue Memorandum Order (RMO) No. 41-91 and Section 196 of the National Internal Revenue Code of 1997, as amended.

Moreover, the notarial acknowledgment to the individual deed of conveyance is also subject to the DST pursuant to Section 188 of the National Internal Revenue 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,

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

Copyright 2020 CD Technologies Asia, Inc.