July 30, 2018

BIR RULING NO. 1120-18

RA 7279; BIR Ruling No. 383-13

United Poor Homeowners Association, Inc.
Gumamela Ext., Carmen
Cagayan de Oro City

Attention: *AAA*

Gentlemen :

This refers to your letter dated May 20, 2016 duly indorsed by Revenue Region No. 16-Cagayan de Oro City requesting exemption from the payment of Capital Gains Tax and other taxes, relative to the transfer of title of land in favor of members-beneficiaries pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992."

It is represented that United Poor Homeowners Association, Inc. (TIN: 000-000-000-000) is the registered owner of parcels of land covered by the following Transfer Certificates of Title (TCT), to wit:

TCT No.	Lot Area sq.m.
T-177286	60
T-177287	58
T-177288	45
T-177289	40
T-177290	60
T-177292	58
T-177293	58
T-177297	30
T-177300	50
T-177301	48
T-177302	50

issued by the Registry of Deeds for the Cagayan de Oro City; that it is a non-stock,

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non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB) under Registration No. 12173; that the aforesaid lots were acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); that said project was taken-out/paid on September 17, 1997; that the SHFC issued a Partial Release of Real Estate Mortgage constituted above-described TCTs; and that the following are now in the process of transferring the purchased properties to their names by virtue of their respective undated Deeds of Absolute Sale of Real Property, to wit:

Name of Member-Beneficiaries	**TCT No.**
BBB (married to AAA)	T-177286
CCC	T-177287
DDD	T-177288
EEE	T-177289
FFF	T-177290
GGG	T-177292
Heirs of HHH, represented by III	T-177293
JJJ	T-177297
KKK	T-177300
LLL	T-177301
MMM	T-177302

In support of your request, you have completely submitted on October 21, 2016 the following documents:

1) Written Application for Exemption;

2) Deeds of Absolute Sale;

3) Certified True Copies of the Transfer Certificate of Title (TCT);

4) Certification from the Social Housing Finance Corporation (SHFC) that the property was acquired through CMP;

5) Certified true copy of the Articles of Incorporation of the community association;

6) Certified True Copy of the Masterlist of Qualified Beneficiaries duly certified by the SHFC;

7) Certificates of Payment;

8) Partial Release of Real Estate Mortgage;

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9) BIR Certificate of Registration;

10) Other pertinent documents.

In reply, please be informed that the transfer in favor of your individual member-beneficiaries of the said subdivided properties is not subject to either the capital gains tax 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, implementing Section 57 (B) of the same Code, considering that the said transfer is merely a formality to finally effect the transfer of the said properties to your member-beneficiaries who actually bought the same from the former owner through your Association. In other words, the association is in fact transferring the ownership of the property to its member-beneficiaries who actually own the same.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent or intention on your part to donate the said properties to each member-beneficiary, considering that you could not donate such properties the ownership of which belong to the donees (member-beneficiaries) themselves. *(BIR Ruling No. 383-13 dated October 22, 2013)*

It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax 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.

Accordingly, the transfer of titles of the said properties in favor of your member-beneficiaries is not subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to said deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997. *(BIR Ruling No. 383-13 dated October 22, 2013)*

It is, however, understood that the respective Certificates 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 of the house and lot packages in this case does not really exceed P450,000.00 and P180,000.00 for lot only. Thus, sale of a house and lot or lot only above the maximum amount shall be subject to the corresponding internal revenue taxes. *(BIR Ruling No. 383-13 dated October 22, 2013)*

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

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