August 31, 2018

BIR RULING NO. 1143-18

RA 7279; Ruling No. 383-13

Kapit-Bisig ng Abra Homeowners Association, Inc.
64 Abra St., Brgy. Ramon Magsaysay
Bago Bantay, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated November 23, 2016 requesting exemption from the payment of capital gains tax and other taxes, relative to the transfer of titles of land in favor of fully paid members-beneficiaries pursuant to Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents show that **Kapit-Bisig ng Abra Homeowners Association, Incorporated** is a non-stock, non-profit organization duly registered with the Home Insurance and Guaranty Corporation (HIGC) under Registration No. 04-2330 dated March 9, 1993. It is the registered owner of parcels of land covered by the following Transfer Certificates of Title (TCT):

TCT No.	**Lot Area (in sq.m.)**
N-243432	31
N-243415	31
N-243416	31
N-243437	31
N-243434	31
N-125432	30

issued by the Registry of Deeds of Quezon City acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC) and with the Quezon City Government as originator. The said project was taken-out/paid on May 22, 1990 and December 14, 1990, respectively. Thereafter, the SHFC issued a Partial Release of Real Estate Mortgage constituted over each of the

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above-listed properties described in the TCTs.

The purchased properties are now in the process of being transferred under the names of the following owners/qualified beneficiaries by virtue of their respective Deeds of Absolute Sale:

Name of Member-Beneficiaries	TCT No.
AAA	N-243432
BBB	N-243415
CCC	N-243416
DDD	N-243437
EEE	N-243434
FFF	N-125432

In support of your request, you have completely submitted on November 24, 2016 the following documents:

1) Written Application for Exemption filed with the Law Division;

2) Deeds of Absolute Sale;

3) Certified True Copies of the TCT;

4) Certifications 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;

9) BIR Certificate of Registration; and

10) Other pertinent documents.

In reply, please be informed that the transfer in favor of your individual member-beneficiaries of the abovementioned 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

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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 same Tax Code, 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 belongs to the donees (member-beneficiaries) themselves. *(BIR Ruling No. 005-11 dated January 19, 2011 and BIR Ruling No. 367-11 dated October 5, 2011)*

It is noted that under Section 196 of the Tax Code, 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 purchase 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 DST imposed under Section 196 of the Tax Code. However, the notarial acknowledgment to said deed of conveyance is subject to DST of P15.00 pursuant to Section 188 of the Tax Code. *(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 PhP145,000.00 and PhP180,000.00 for lot only. Thus, sale of a house and lot or lot only above the maximum amount shall be subject to 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.

Very truly yours,

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

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