August 31, 2018

BIR RULING NO. 1144-18

R.A. 7279; BIR Ruling No. 514-2012

Gloria Residents Association, Inc.
Gloria Compound Pilar Village
Las Piñas City

Attention: *AAA*

Gentlemen :

This refers to your letter dated August 21, 2017 requesting exemption from capital gains tax (CGT) and other taxes, if any, relative to the transfer of title of land from Gloria Residents Association, Inc. in favor of its qualified members-beneficiaries pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992."

Based on documents submitted, it is shown that Gloria Residents Association, Inc., with Taxpayer's Identification No. 000-000-000-000, is a non-stock, non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. 04-166; that it is the registered0 owner of various lots which were acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); that the SHFC issued Partial Releases of Real Estate Mortgage constituted over the properties described below:

TCT No.	Date of Annotation of Real Estate Mortgage	Date of Release of Real Estate Mortgage	Beneficiaries
005-2012000567	August 23, 1994	April 25, 2017	AAA
005-2012000464	August 23, 1994	February 20, 2017	BBB
005-2012000367	August 23, 1994	August 15, 2016	CCC
005-2012000493	August 23, 1994	Undated	DDD
005-2012000604	August 23, 1994	May 12, 2014	EEE
005-2012000488	August 23, 1994	October 5, 2015	FFF
005-2012000377	August 23, 1994	March 10, 2014	GGG
005-2012000399	August 23, 1994	April 8, 2016	HHH
005-2012000378	August 23, 1994	April 7, 2014	III

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005-2012000371	August 23, 1994	February 20, 2017	JJJ
005-2012000598	August 23, 1994	September 13, 2016	KKK
005-2012000617	August 23, 1994	April 10, 2015	LLL
005-2012000428	August 23, 1994	June 10, 2014	MMM
005-2012000610	August 23, 1994	August 2, 2013	NNN
005-2012000437	August 23, 1994	August 5, 2016	OOO
005-2012000398	August 23, 1994	August 11, 2017	PPP

and that the above-named beneficiaries are now in the process of transferring the purchased properties to their respective names.

In reply, please be informed that the transfer by Gloria Residents Association, Inc. in favor of the above-named members-beneficiaries who have made full payment of their purchased subdivided lots is not subject to either the CGT 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, considering that the said transfer of property is made without any consideration and effected only as a formality to finally effect the transfer of the said property to its members-beneficiaries who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its members-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 on the part of the Association to donate the said property to said members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves. (BIR Ruling No. 514-2012 dated August 3, 2012)

It is noted that under Section 196 of the Tax Code of 1997, 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 purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchasers are actually the owners thereof. Besides, no consideration is involved in said transaction upon which the tax imposed could be based.

Accordingly, the transfer of title of the subject lots in favor of the above-named beneficiaries is not subject to DST under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to the 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. 514-2012 dated August 3, 2012)

It is, however, understood that the Certificate 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

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Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction in this case does not exceed P450,000.00 [1] for house and lot and P180,000.00 for lot only for each qualified beneficiaries. (BIR Ruling No. 514-2012 dated August 3, 2012)

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

Footnotes

1. HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013, approving the adjustment of price ceiling for horizontal socialized housing from P400,000.00 per house and lot to P450,000.00.

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