November 15, 2018

BIR RULING NO. 1359-18

RA 8424

Home Development Mutual Fund (PAG-IBIG Fund)
G/F Insular Life Building, Abanao Street, Baguio City

Attention: *Jerome P. Avila*
Department Manager III

Gentlemen :

This refers to your letter dated August 10, 2010 requesting for BIR Ruling that will relieve the **HOME DEVELOPMENT MUTUAL FUND (PAG-IBIG FUND)** of any tax liabilities relative to the housing loan accounts which were availed by its members via a Contract to Sell scheme through the land developer FREM Construction, Inc.

The facts, as you represented, are as follows:

FREM Construction, Inc. represented by AAA, availed of the PAG-IBIG FUND's Direct Developmental Loan Program to develop Marville Homes Subdivision located in Tadiangan, Tuba, Benguet on March 22, 2001. Documents such as a Memorandum of Agreement (MOA), Loan Agreement (LA), and Deed of Assignment (DOA) were executed to protect the interest of the Fund, the developer and its buyers. On July 31, 2007 the property was foreclosed by the Fund due to the failure of the developer, AAA, to pay its obligations. Under the terms and conditions of the CTS, the developer, FREM Construction, Inc. shall convert the Contract to Real Estate Mortgage not later than 24 months from loan take out for qualified housing loan accounts. Unfortunately there was no conversion undertaken by the developer since he absconded and his whereabouts is unknown. That by virtue of the Deed of Assignment which was executed by AAA and the **PAG-IBIG FUND**, the latter as assignee thereof takes over the responsibility of the developer. Since, **PAG-IBIG FUND** has taken over the conversion of the Contract to Sell to Real Estate Mortgage in its capacity as assignee of the Contract to Sell, the latter now seeks the consideration of the BIR for them to be allowed to pay a one-time expanded withholding tax (EWT), not be imposed penalties on the said transactions and be relieved of the tax liabilities of FREM Construction, Inc. and the corresponding penalties thereto.

In reply, please be informed that there is no provision in the National Internal

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Revenue Code of 1997, as amended, or revenue regulations promulgated by this Office granting the payment of a one-time EWT in lieu of the tax liabilities of another taxpayer and the non-imposition of penalties thereto.

Accordingly, your request for one-time EWT in lieu of the tax liabilities of FREM Construction, Inc., and the non-imposition of penalties thereto is hereby denied for lack of legal basis.

Very truly yours,

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

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