REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

Quezon City

| RA7279 |
|---|
| BIR Ruling No. 003-16 |
| 154-2016<br>4-27-2016 |

**NATIONAL HOUSING AUTHORITY**
Quezon Memorial Elliptical Road
Diliman, Quezon City

Attention : **FELICISIMO F. LAZARTE, JR.**
Group Manager
Northern and Central Luzon

Gentlemen:

This refers to your letters dated November 16, 2015 requesting issuance of Certificate of Tax Exemption, in behalf of ARR Construction, for the socialized housing project under the Yolanda Housing Project located at Brgy. Fatima, New Washington, Aklan-Site 1 and 2 pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted show that Aaron B. Bautista (hereinafter referred to as Landowner) is the registered owner of a parcel of land with an area of Seventy Eight Thousand Five Hundred One square meters (78,501 sq.m.), identified as Lot F of the subdivision plan (LRC) Psd-210528, being a portion of the land described on plan Psu-67021, LRC (GLRO) Rec. No. situated at Brgy. Fatima (Dumaguit), New Washington, Aklan and covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for the Province of Aklan. On May 25, 2015, Deeds[1] of Absolute Sale were executed whereby the Landowner, transferred and conveyed Thirty Eight Thousand Three Hundred Seventy Four square meters (38,374 sq. m.) portion of the subject property to National Housing Authority (NHA) (TIN: ') at an agreed price of Pesos (I ).

The above described property have been identified and certified for development into a residential project under the Yolanda Permanent Housing Program intended for the families affected by Typhoon Yolanda and qualified for housing assistance under R. A. No. 7279.

**SITE 1**

The NHA has issued a Notice of Award dated December 4, 2014 to ARR

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[1] First Deed of Absolute Sale, 24,230 sq.m. for and Second Deed of Absolute Sale, 14,144 sq.m. for

Construction (TIN for the "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Permanent Housing Program located at Site 1 Sitio Fatima, Brgy.Dumaguit, New Washington, (Site 1) Ochando, New Washington, Aklan-340 Housing Units" with a contract price of

Two and Pesos ).

To give effect to the Notice of Award, a Contract for the Procurement of Fully Developed Lots and Completed Housing Units (340 Units) at New Washington Homes Housing Project-Phase 1 located at Brgy. Dumaguit, New Washington, Aklan was executed on June 10, 2015 between NHA and ARR Construction, whereby the latter is committed to deliver Three Hundred Forty (340) units (House and Lot Package) for a contract price of P ; and that according to the contract, the scope of work under this project are "boundary and subdivision survey, roadworks, drainage works, water supply works, power supply works, housing construction and miscellaneous requirements necessary for the completion of the project.

**SITE 2**

The NHA has issued a Notice of Award dated December 4, 2014 to ARR Construction for the "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Permanent Housing Program located at Site 2 Brgy. Fatima, New Washington, Aklan-160 Housing Units" with a contract price of

Pesos ( ).

To give effect to the Notice of Award, a Contract for the Procurement of Fully Developed Lots and Completed Housing Units (160 Units) at New Washington Homes Housing Project-Phase 2 located at Brgy. Dumaguit, New Washington, Aklan was executed on June 10, 2015 between NHA and ARR Construction, whereby the latter is committed to deliver One Hundred Sixty (160) units (House and Lot Package) for a contract price of P and that according to the contract, the scope of work under this project are "boundary and subdivision survey, roadworks, drainage works, water supply works, power supply works, housing construction and miscellaneous requirements necessary for the completion of the project.

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA) No. 7279, pertinent portions of which state that:

> *"Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title.*
>
> *"Sec. 20. Incentives for Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further reduce the cost of housing units for the benefit of the underprivileged and homeless, the following incentives shall be extended to the private sector:*
>
> *xxx xxx xxx*

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*"(d) Exemption from the payment of the following:*

*(1) Project-related income taxes;*
*(2) Capital Gains Tax on raw lands used for the project;*
*(3) Value-added tax for the project contractor concerned;"*

*xxx xxx xxx*

Moreover, pertinent portions of RMC No. 42-01 dated October 5, 2001, provide, viz.:

*xxx xxx xxx*

*A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:*

*(1) . . .*

*(2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA," the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.*

*xxx xxx xxx*

***NHA's acquisition of raw land***

The landowner who sells his property for use in a socialized housing project is exempt from the payment of the capital gains tax.

Such being the case, the sale by the landowner to NHA of the ***38,374*** [2] ***sq. m. portion out of 78,501 sq. m. covered by TCT No.*** is exempt from capital gains tax. (BIR Ruling No. 003-2016 dated January 6, 2016)

The exemption from documentary stamp tax of NHA in connection with any of its socialized housing project extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale. Accordingly, the transfer by the landowner to NHA of the ***38,374*** [3] ***sq. m. portion out 78,501 sq. m. covered by TCT No.*** is likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 003-2016 dated January 6, 2016)

Moreover, under Section 109 (1)(P) of the Tax Code of 1997, as amended by R.A. 9337, the sale of real properties utilized for low-cost and socialized housing as defined by R.A. No. 7279 shall be exempt from value-added tax (VAT), thus, the sale of the ***38,374*** [4] ***sq. m. portion out of 78,501 sq. m. covered by TCT No.*** by the landowner to NHA for purposes of the Yolanda Permanent Housing Program is exempt from the imposition of VAT. (BIR Ruling No. 003-2016 dated January 6, 2016)

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[2] 24,230 sq.m for First Deed of Absolute Sale and 14,144 sq.m. for Second Deed of Absolute Sale
[3] id
[4] id

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Upon application for exemption, a lien on the titles of the lands shall be annotated by the Register of Deeds having jurisdiction over the properties, to the effect that the same is to be applied or is being applied to socialized housing project pursuant to RA 7279.

Please take note that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect transfer of the lands in the name of the buyer without the necessary certificate of authority to register issued by this Bureau. In this regard, this ruling shall be presented to the Revenue District Office (RDO) concerned in order for the latter to issue the Certificate Authorizing Registration (CAR) after the submission of the requirements provided under Revenue Memorandum Order (RMO) No. 15-2003.

***Transaction between NHA and ARR Construction***

Considering that ARR Construction is a project contractor whose services are engaged by NHA to undertake construction of 500 Housing Units with its necessary construction components in New Washington Homes Housing Project-Phase 1 and 2 located at Brgy. Fatima (Dumaguit), New Washington, Aklan and which was certified by the NHA as a socialized housing project as resettlement site pursuant to R.A. 7279, the income directly realized by ARR Construction from the land development and housing construction with its necessary construction components for 500[5] Housing Units in New Washington Homes Housing Project-Phase 1 and 2 located at Brgy. Fatima (Dumaguit), New Washington, Aklan shall be exempt from project-related income taxes. (BIR Ruling No. 003-2016 dated January 6, 2016)

Moreover, pursuant to Section 20 (d)(3) of R.A. No. 7279, the housing construction with its necessary construction components for 500[6] Housing Units in New Washington Homes Housing Project-Phase 1 and 2 located at Brgy. Fatima (Dumaguit), New Washington, Aklan by ARR Construction shall be exempt from VAT. However, the purchases of goods/articles by ARR Construction shall be subject to VAT, even if the said purchases are to be used for the socialized housing project, since VAT is an indirect tax which can be passed on by the seller of the goods/services. It shall be understood that ARR Construction must issue non-VAT official receipts on its gross receipts from the said socialized housing project.

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,

**KIM S. JACINTO-HENARES**
Commissioner of Internal Revenue

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[5] 340 Units for Site 1 and 160 Units for Site 2
[6] id