REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RR No. 16-2005
BIR Ruling No. 285-14
#191-2016 5-16-2016

HOMEOWNERS DEVELOPMENT CORPORATION
3rd Flr. Hernandez Bldg., Katipunan Ave.
St. Ignatius Village, Quezon City

Attention : **BESSIE B. ISLA**
Sales Manager

Gentlemen:

This refers to your letter dated April 1, 2015 requesting for a Certificate of Value-added Tax (VAT) Exemption on the sale of house and lot package amounting to per unit and above, but not more than , pursuant to Section 4.109-1 (B) (1) (p) of Revenue Regulations (RR) No. 16-2005 .

Documents submitted show that Homeowners Development Corporation, a real estate corporation registered with the Securities and Exchange Commission (SEC) under Registration No. , with Taxpayers Identification Number and duly registered with the Housing and Land Use Regulatory Board (HLURB), to wit:

Name of Project	HLURB Certificate of Registration	HLURB License to Sell No.	No. of lots/units	Maximum Selling Price (Php)
Birmingham Alberto			141 lots	per lot
Birmingham Alberto Phase II			105 lots (67 house and lot and 38 lots only)	for house and lot/ for lot only
Birmingham Alberto I-A and II-A			73 (41 lots only and 32 house and lot)	for house and lot
Birmingham Alberto I-B			20 lots with housing components and 40 lots only	for house and lot/ for lot only

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Please be informed that Section 4.109.1 of RR No. 16-2005, which considered pertinent laws such as Republic Act No. 7279 otherwise known as the "Urban Development and Housing Act of 1992", Republic Act No. 7835 otherwise known as the "Comprehensive and Integrated Shelter Financing Act of 1994", and Republic Act No. 8763 otherwise known as the "Home Guaranty Corporation Act of 2000" among others, defines low-cost and socialized housing as follows:

SEC. 4.109-1. VAT-Exempt Transactions. — . . .

(B) Exempt transactions. —

xxx xxx xxx

(p) The following sales of real properties are exempt from VAT, namely:

xxx xxx xxx

(2) Sale of real properties utilized for low-cost housing as defined by RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992" and other related laws, such as RA No. 7835 and RA No. 8763.

"Low-cost housing" refers to housing projects intended for homeless low-income family beneficiaries, undertaken by the Government or private developers, which may either be a subdivision or a condominium registered and licensed by the Housing and Land Use Regulatory Board/Housing (HLURB) under BP Blg. 220, PD No. 957 or any other similar law, wherein the unit selling price is within the selling price ceiling per unit of P750,000.00 under RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992" and other laws, such as RA No. 7835 and RA No. 8763.

(3) Sale of real properties utilized for socialized housing as defined under RA No. 7279, and other related laws, such as RA No. 7835 and RA No. 8763. wherein the price ceiling per unit is P225,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws.

"Socialized housing" refers to housing programs and projects covering houses and lots or home lots only undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberated terms on interest payments, and such other benefits in accordance with the provisions of RA No. 7279, otherwise known as the "Urban Development and Housing Act of 1992" and RA No. 7835 and RA No. 8763. "Socialized housing" shall also refer to projects intended for the underprivileged and homeless wherein the housing package selling price is within the lowest interest rates under the Unified Home Lending Program (UHLP) or any equivalent housing program of the Government, the private sector or non-government organizations.

On the other hand, Section 109 (P) of the Tax Code, as clarified by the same provision in RR No. 16-2005 and further amended by RR No. 16-2011, exempts from VAT the sale of properties held primarily for sale to customers with a selling price not exceeding the thresholds of P1,919,500.00 on sale of residential lots, and P3,199,200.00 for sale of house and lot and other residential dwellings.

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Please note that under RR No. 16-2005 otherwise known as the "Consolidated VAT Regulations of 2005", as amended by RR No. 13-2012, the exemption under Section 109 (P) of the Tax Code is subject to certain conditions. Section 4.109-1 (B) (1) (p) of RR No. 16-2005 now provides:

"SEC. 4.109-1. VAT-Exempt Transactions. —

(A) In general. — "VAT-exempt transactions" refer to the sale of goods or properties and/or services and the use or lease of properties that is not subject to VAT (output tax) and the seller is not allowed any tax credit of VAT (input tax) on purchases.

The person making the exempt sale of goods, properties or services shall not bill any output tax to his customers because the said transaction is not subject to VAT.

(B) Exempt transactions. --

(1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:

xxx xxx xxx

"(p) The following sales of real properties are exempt from VAT, namely:

(4)

xxx xxx xxx

If two or more adjacent residential lots, house and lots or other residential dwellings are sold or disposed in favor of one buyer from the same seller, for the purpose of utilizing the lots, house and lots or other residential dwellings as one residential area, the sale shall be exempt from VAT only if the aggregate value of the said properties do not exceed P1,919,500.00 for residential lots, and P3,199,200.00 for residential house and lots or other residential dwellings. Adjacent residential lots, house and lots or other residential dwellings although covered by separate titles and/or separate tax declarations, when sold or disposed to one and the same buyer, whether covered by one or separate Deed/s of Conveyance, shall be presumed as a sale of one residential lot, house and lot or residential dwelling.

This however, does not include the sale of parking lot which may or may not be included in the sale of condominium units. The sale of parking lots in a condominium is a separate and distinct transaction and is not covered by the rules on threshold amount not being a residential lot, house & lot or a residential dwelling, thus, should be subject to VAT regardless of amount of selling price.

xxx xxx xxx"

While the selling price of the housing units/ lots only is pegged at
or r lot only and l for house and lot which does qualify under the classification of a low-cost housing, the selling price still meets the VAT-exempt thresholds of P1,919,500.00 on sale of residential lots, and P3,199,200.00 for

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sale of house and lot and other residential dwellings under Section 109 (P) of the Tax Code. Thus, the sale of Homeowners Development Corporation of the housing units/ lots only at the Birmingham Alberto, Birmingham Alberto Phase II, Birmingham Alberto I-A and II-A and Birmingham Alberto I-B, is exempt from VAT. *(BIR Ruling No. 285-14 dated July 9, 2014)*

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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MAR 10 2016