REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA7279
BIR Ruling No. 171-15; BIR Ruling No. 063-14
#232-2016 6-2-2016

R.R. ENCABO CONSTRUCTORS, INC.
40 Ashley St., North Fairview Subdivision
Quezon City

Attention : **ENGR. JOSELITO RAMIR RICOHERMOSO ENCABO**
President

Gentlemen:

This refers to the Indorsement of Atty. Sinforoso R. Pagunsan, General Manager, National Housing Authority (NHA) dated December 11, 2015, requesting issuance of Certificate of Tax Exemption for socialized housing project, the "Fully Developed & Completed Housing Units" under NHA's Yolanda Permanent Housing Program located at Brgy. Suhi, Tacloban City (Yu Property) pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted show that the following collectively referred to as Landowners are the registered owners of two (2) Transfer Certificates of Title (TCT), to wit:

Landowners	TCT	Lot No.	Area (sq. m.)
Reynaldo T. Yu			20,000
Paulita T. Yu (9/16 share), Reynaldo T. Yu (1/16 share), Helita Yu Robb[1] (1/16 share), Josito T. Yu[2] (1/16 share), Juliet Yu Pierce[3] (1/16 share), Allan T. Yu[4] (1/16 share), Andres T. Yu, Jr.[5] (1/16 share) and Vincent T. Yu (1/16 share)			198,391
		Total	218,391

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[1] married to David Robb
[2] married to Erlinda C. Yu
[3] married to Robert Pierce
[4] married to Ma. Celina Yu
[5] married to Ma. Lina L. Yu

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both issued by the Registry of Deeds for the Tacloban City.

The following Deeds of Absolute of Sale conveying certain portions of the abovementioned properties were executed by the respective landowners to the National Housing Authority (NHA) (TIN: a government corporation organized and existing by virtue of Presidential Decree No. 757, as amended:

Landowners	Date of Deed of Absolute Sale	TCT	Area (sq. m.)	Consideration (PhP)
Reynaldo T. Yu	August 6, 2015		20,000	160,000.00
Paulita T. Yu, et al.	August 6, 2015		33,000	264,000.00
		Total	53,000	

The above described properties 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.

The NHA has issued a Notice of Award dated October 23, 2014 to R.R. Encabo Constructors Incorporated (TIN: for the "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Housing Program located at Brgy. Suhi, Tacloban City (Yu Property)-1,000 Housing Units" with a contract price of

To give effect to the Notice of Award, a Contract for the Procurement of House and Lot Packages at Guadalupe Heights 3 located at Brgy. Suhi, Tacloban City was executed on September 14, 2015 between NHA and R.R. Encabo Constructors Incorporated, whereby the latter is committed to deliver One Thousand (1,000) units (House and Lot Package) for a contract price of and that according to the contract, the scope of work under this project are "survey works, earthworks, road works, drainage works, water system, electrical power lines, miscellaneous works and housing construction.

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

Sale by the Landowner to NHA

The landowners who sells their properties 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 landowners to NHA of the ***53,000[6] sq. m. portion out of 218,391 sq. m. covered by TCT Nos. and*** is exempt from capital gains tax. (BIR Ruling No. 171-2015 dated June 8, 2015)

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 ***53,000[7] sq. m. portion out of 218,391 sq. m. covered by TCT Nos. and*** are likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 171-2015 dated June 8, 2015)

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 ***53,000[8] sq. m. portion out of 218,391 sq. m. covered by TCT Nos. and T-*** by the landowner to NHA for purposes of the Yolanda Permanent Housing Program is exempt from the imposition of VAT. (BIR Ruling No. 171-2015 dated June 8, 2015)

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[6] 20,000 sq.m. for TCT No. and 33,000 sq.m. for TCT No.
[7] id
[8] 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.

On the other hand, the exemption granted under R.A. 7279 is without prejudice to the right of the Government to collect the proper amount of estate tax to the legal heirs pursuant to Section 84 of the Tax Code, as amended.

Transaction between R.R. Encabo Constructors Incorporated and NHA

Considering that R.R. Encabo Constructors Incorporated is a project contractor whose services are engaged by NHA to undertake construction of 1,000 Housing Units with its necessary construction components in Guadalupe Heights 3 located at Brgy. Suhi, Tacloban City 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 R.R. Encabo Constructors Incorporated from the land development and housing construction with its necessary construction components for 1,000 Housing Units in Guadalupe Heights 3 located at Brgy. Suhi, Tacloban City shall be exempt from project-related income taxes. (BIR Ruling No. 063-14 dated February 19, 2014)

Moreover, pursuant to Section 20 (d)(3) of R.A. No. 7279, the housing construction with its necessary construction components for 1,000 Housing Units in Guadalupe Heights 3 located at Brgy. Suhi, Tacloban City by R.R. Encabo Constructors Incorporated shall be exempt from VAT. However, the purchases of goods/articles by R.R. Encabo Constructors Incorporated 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 R.R. Encabo Constructors Incorporated 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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