REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 20, RA 7279
BIR Ruling No. 432-15
#237-2016 6-6-2016

OFFICE OF THE SECRETARY TO THE MAYOR
3rd Floor, Main Building, Quezon City Hall
Elliptical Road, Quezon City

Attention: **TADEO M. PALMA**
Secretary to the Mayor and Head, Task Force on Socialized Housing and Development of Blighted Areas

Gentlemen:

This refers to your letter dated August 11, 2015 requesting for the issuance of a ruling exempting the project contractor (Land Development: Phinma Property Holdings Corp. and Housing: Phinma Property Holdings Corp.) from the payment of Withholding Tax on Government Payments equivalent to five percent (5%) and withholding of creditable Income Tax equivalent to Two percent (2%).

Documents submitted disclosed that on October 27, 2011, a Memorandum of Agreement (MOA) for the development of Bistekville 2 was executed by and among, Phinma Property Holdings Corporation, a corporation duly organized and registered with the Securities and Exchange Commission (SEC) under Registration No. , Atty. Ofelia Arce, as the landowner, and the Quezon City Government (LGU), as the implementing government agency to address the lack of affordable and decent housing in Quezon City for informal settlers, upgrade living conditions of blighted areas and convert it into a decent and productive community.

Under the MOA, Phinma Property Holdings Corporation shall undertake the land development and construction of 921[1] lots each with an area of 27 square meter, more or less shall be made available to qualified beneficiaries of the Quezon City Local Government Housing Program and 83 lots shall remain under the name of the landowner. Atty. Ofelia Arce is the registered owner of parcels of land covered by Transfer Certificate of Title (TCT) No.), designated as Lot No. 614 of Tala Estate, GLRO Rec. No. and Transfer Certificate of Title (TCT) No. designated as Lot D of Subd. Plan (LRA) psd- 384988 approved as a non-subd. project, being a portion of the cones of Lot 381, 475 & 722, Tala Estate LRC Rec. No. located at Brgy. Kaligayahan containing areas of 44,554 sq.m. and 4, 322 sq.m. more or less, respectively and the LGU shall be the proponent and loan originator and partner under the Quezon City Urban Upgrading and Renewal Program and shall identify, pre-qualify, evaluate and award the units to the qualified beneficiaries.

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[1] After some technical modifications, the subdivision plan was finally approved (subdivision Plan Pcs-00-013966) with a total of 977 generated lots, 894 lots which were earmarked for the construction of one-storey loft-type housing, while the remaining 83 lots were retained by the landowner

#237-2016
6-6-2016

In order to maximize the land area and to provide greater opportunity for a greater number of beneficiaries to avail of in city housing units, the parties executed an "Amendment to the Memorandum of Agreement (for the Development of Bistekville 2) on November 26 2013, which amendment covers alteration of the model/type of housing units for a number of lots earmarked for One-Storey Loft-Type Housing Units to Three-Storey Walk-up Housing Units, thereby increasing the number of housing units of the project to 703 units of one-storey row-house with loft and 375 condominium units of three-storey walk-up or a total of 1078 housing units.

The loan proceeds of every taken-out Walk-up housing units shall be distributed to the parties as return of their contributions based on the agreed proportion sharing scheme as follows:

Share of landowner: Php
Share of PPHC: Php
Share of LGU-QC: Php

However, Amendment to the Amended MOA dated December 10, 2014, was executed to amend specifically the provisions on the loan proceed distribution of the remaining 273 three-storey walk up condominium units as follows:

Share of landowner: Php
Share of PPHC: Php
Share of LGU-QC: Php

Moreover, in BIR Ruling No. 373-2012 dated June 4, 2012, the BIR ruled that the conveyance on the portion of land pertaining to the nine hundred twenty one (921) lots covered by TC) No. is exempt from the payment of capital gains tax or the withholding tax under Revenue Regulations No. 2-98, as amended. However, the sale is subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997 based on the actual consideration of the properties transferred, considering that one of the contracting parties is the Government.

In reply, please be informed that pertinent portion of Section 20 of RA No. 7279 reads:

> *"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*
>
> *(d) Exemption from the payment of the following:*
>
> *(1) Project-related income taxes;*
>
> *(2) xxx xxx xxx;*
>
> *(3) Value-added tax for the project contractor concerned;"*
>
> *xxx xxx xxx"*

Considering that Phinma Property Holdings Corporation is a project contractor whose services are engaged by Quezon City Government to undertake construction of 703 units of one-storey row-house with loft and 375 condominium units of three-

1-237-2016
6-6-2016

storey walk-up and land development with its necessary construction components located in Bistekville 2, Brgy. Kaligayahan, Novaliches, Quezon City and which was certified by the Quezon City Government as a socialized housing project as resettlement site pursuant to RA 7279, the income directly realized by Phinma Property Holdings Corporation from the construction of 703 units of one-storey row-house with loft and 375 condominium units of three-storey walk-up and land development in Bistekville 2, Brgy. Kaligayahan, Novaliches, Quezon City shall be exempt from project-related income taxes and, consequently from withholding tax. (BIR Ruling No. 432-15 dated December 17, 2015)

Moreover, pursuant to Section 20 (d)(3) of R.A. No. 7279, the construction of 703 units of one-storey row-house with loft and 375 condominium units of three-storey walk-up and land development by Phinma Property Holdings Corporation and its necessary construction components shall be exempt from VAT and consequently to final VAT due at the rate of 5% of the gross payment.

However, its purchases of goods/articles 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.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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