April 22, 2019

BIR RULING NO. 252-19

RA No. 7227; RA 7279; Section 196 1997 NIRC; RMC No. 42-01; BIR Ruling No. 027-2000; BIR Ruling No. 018-2011

Bases Conversion and Development Authority
BCDA Corporate Center, 2/F Bonifacio Technology Center
31st St. cor. 2nd Ave., Bonifacio Global City
Taguig City

Attention: *Ms. Elvira V. Estanislao*
OIC-Business Development Operations Group

Gentlemen :

This refers to your letter dated October 27, 2016 requesting for a tax exemption ruling on the transfer by Bases Conversion and Development Authority (BCDA) of its property to the National Housing Authority (NHA) for the socialized housing portion of Camp Atienza, Quezon City.

Documents submitted show that BCDA (TIN 000-000-000-000) is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 004-2015005645 described as Lot No. 49-C-2-A-1-B of Psd-007404-031713-D with an area of 5,434 sq.m. and located in Barangay Libis, Quezon City. The afore-stated property is the subject of a Memorandum of Agreement (MOA) dated May 9, 2006 among BCDA, Housing and Urban Development Coordinating Council (HUDCC), Department of Environment and Natural Resources (DENR), Department of National Defense (DND), NHA, Presidential Commission for the Urban Poor (PCUP), the Quezon City Government and the Office of the Representative of the 3rd Congressional District of Quezon City declaring portions of BCDA properties in Libis, Quezon City particularly the subject area to be used as a socialized housing site and providing for the disposition thereof to qualified occupants pursuant to Executive Order (E.O.) No. 116 dated August 15, 2002. Furthermore, E.O. No. 131 dated October 1, 2002 declared open to disposition for socialized housing purposes certain government-owned lands defined under Republic Act (R.A.) No. 7279, or the Urban Development and Housing Act of 1992 (UDHA). Government-owned lands, which have not been used for the purposes for which they have been reserved or set aside from the effectivity of UDHA law including government-owned idle lands and alienable lands of the public domain and are suitable for socialized housing shall be subject to disposition for socialized housing purposes. The

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NHA under the supervision of HUDCC shall be the lead agency in the disposition of the lands described in EO 131.

In reply, please be informed that Section 8 of R.A. No. 7227, as amended by R.A. No. 7917, grants the President the authority to sell, in whole or in part, that certain 4.9 hectares, more or less, covering Camp Atienza, which are declared alienable and disposable pursuant to the provisions of existing laws and regulations governing sales of government properties. Furthermore, pursuant to the above provision, the proceeds of its sale shall not be diminished and, therefore, exempt from all forms of taxes and fees.

In BIR Ruling No. 027-2000 dated June 28, 2000, this Office had ruled that BCDA is exempt from the creditable withholding tax imposed under Section 57 (B) of the Tax Code of 1997, as implemented by Section 2.57.2 (J) of Revenue Regulations (RR) No. 2-98, or from the capital gains tax under Section 27 (D) (5) of the Tax Code of 1997, as amended, in relation to the proceeds of its sale of certain government properties specifically enumerated in R.A. No. 7227, as amended by R.A. No. 7917.

Since Camp Atienza is among those properties specifically enumerated in R.A. No. 7227, as amended by R.A. No. 7917, which are alienable and disposable, the proceeds from its sale, therefore, is exempt from capital gains tax, income tax, and consequently, from the creditable withholding tax imposed under Revenue Regulations (R.R.) No. 2-98, as amended.

Moreover, pursuant to R.A. No. 7279, the State declares as its policy to undertake, in cooperation with the private sector, a comprehensive and continuing urban development and housing program. To be able to accomplish the aforementioned policy, the NHA has been granted such incentives which are specifically provided for in Section 19, Article V thereof, portion of which reads as follows:

Section 19 of R.A. 7279 provides that:

> "Section 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 real 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 titles."

Revenue Memorandum Circular (RMC) No. 42-01 dated October 5, 2001 circularizing the tax incentives of sellers of real properties in existing areas for priority development (APDs) sites, and in other areas that may be identified by the local government units as suitable for socialized housing projects under R.A. No. 7279 provides:

> "II. Tax Incentives of Sellers of Subject Real Properties under Secs. 19 and

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20 of Article V, Sec. 25 of Article VI and Sec. 32 of Article VIII of R.A. No. 7279. —

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) x x x

(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 the documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA." (underscoring supplied)

Based on the foregoing, this Office is of the opinion that since Section 19 of R.A. 7279 clearly provides that all documents or contracts executed by and in favor of NHA shall be exempt from the payment of documentary stamp tax, the Deed of Conveyance of Real Property transferring the subject lot of Camp Atienza from BCDA to NHA pursuant to EO 116, is exempt from documentary stamp tax (DST) imposed under Section 196 of the Tax Code of 1997, as amended. The exemption from DST on the Deed of Conveyance of Real Property extends to NHA's contracting party — BCDA. (BIR Ruling No. 018-2011 dated January 21, 2011)

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, and/or any of the requirements set forth in this letter are not complied with, then this ruling shall be considered null and void.

Very truly yours,

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

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