November 11, 2016

BIR RULING NO. 386-16

R.A. 7279; BIR Ruling 514-2012

Gloria Residents Association, Inc.
Gloria Compound Pilar Village
Las Piñas City

Attention: *AAA*

Gentlemen :

This refers to your undated letter requesting exemption from capital gains tax (CGT) and other taxes, if any, relative to the transfer of title of land from Gloria Residents Association, Inc. in favor of its qualified members-beneficiaries pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992."

Based on documents submitted, it is shown that Gloria Residents Association, Inc., with Taxpayer's Identification No. 000-000-000-000, is a non-stock, non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. 04-166; that it is the registered owner of various lots which were acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); that said project was taken-out/paid on November 10, 1994 in the amount of Php_____; that the SHFC issued Partial Releases of Real Estate Mortgage constituted over the properties described below:

TCT No.	Date of Annotation of Real Estate Mortgage	Date of Release of Real Estate Mortgage	Beneficiaries
005-2012000443	August 23, 1994	January 13, 2014	BBB
005-2012000521	August 23, 1994	August 11, 2014	CCC
005-2012000381	August 23, 1994	-	DDD

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005-2012000611	August 23, 1994	November 11, 2014	EEE
005-2012000522	August 23, 1994	October 29, 2013	FFF
005-2012000523	August 23, 1994	May 12, 2014	GGG
005-2012000415	August 23, 1994	July 10, 2013	HHH
005-2012000360	August 23, 1994	July 10, 2013	III
005-2012000478	August 23, 1994	April 10, 2014	JJJ
005-2012000512	August 23, 1994	May 12, 2014	KKK
005-2012000558	August 23, 1994	July 10, 2013	LLL
005-2012000605	August 23, 1994	April 7, 2014	MMM
005-2012000425	August 23, 1994	July 10, 2013	NNN
005-2012000465	August 23, 1994	May 12, 2014	OOO
005-2012000354	August 23, 1994	May 12, 2014	PPP
005-2012000466	August 23, 1994	October 29, 2013	QQQ
005-2012000569	August 23, 1994	July 27, 2015	RRR
005-2012000559	August 23, 1994	July 10, 2013	SSS
005-2012000624	August 23, 1994	May 11, 2014	TTT
005-2012000380	August 23, 1994	May 12, 2014	UUU
005-2012000481	August 23, 1994	Nov. 8, 2013	VVV
005-2012000514	August 23, 1994	Nov. 8, 2013	WWW
005-2012000349	August 23, 1994	July 10, 2013	XXX
005-2012000541	August 23, 1994	Nov. 8, 2013	YYY
005-2012000341	August 23, 1994	May 12, 2014	ZZZ
005-2012000340	August 23, 1994	January 14, 2014	AAA

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005-2012000596	August 23, 1994	May 12, 2014	BBBB
005-2012000392	August 23, 1994	July 22, 2015	CCCC
005-2012000434	August 23, 1994	July 10, 2013	DDDD

and that the above-named beneficiaries are now in the process of transferring the purchased properties to their respective names.

In support of your request, the following documents have been submitted:

1) Written Application for Exemption filed with the Law Division;

2) Certified True Copy of the Transfer Certificates of Title (TCTs);

3) Certification from the Social Housing Finance Corporation (SHFC) that the property was acquired through CMP;

4) HLURB Certification that the Association is duly registered with HLURB;

5) Certificates of Payments;

6) Partial Releases of Real Estate Mortgage; and

7) Other pertinent documents.

In reply, please be informed that the transfer by Gloria Residents Association, Inc. in favor of the above-named members-beneficiaries who have made full payment of their purchased subdivided lots is not subject to either the CGT imposed under Section 27 (D) (5) of the Tax Code of 1997, as amended, or the creditable withholding tax imposed under Revenue Regulations No. 2-98, as amended, considering that the said transfer of property is made without any consideration and effected only as a formality to finally effect the transfer of the said property to its members-beneficiaries who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its members-beneficiaries who actually own the same.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent on the part of the Association to donate the said property to said members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves. (BIR Ruling No. 514-2012 dated August 3, 2012)

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It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold shall be granted, assigned, transferred, or otherwise conveyed to a purchaser or purchasers or to any other person or persons designated by such purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchasers are actually the owners thereof. Besides, no consideration is involved in said transaction upon which the tax imposed could be based.

Accordingly, the transfer of title of the subject lots in favor of the above-named beneficiaries is not subject to DST under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997. (BIR Ruling No. 514-2012 dated August 3, 2012)

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO 15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction in this case does not exceed P450,000.00 [1] for house and lot and P180,000.00 for lot only for each qualified beneficiaries. (BIR Ruling No. 514-2012 dated August 3, 2012)

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,

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

Footnotes

1. HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013, approving the adjustment of price ceiling for horizontal socialized housing from P400,000.00 per house and lot to P450,000.00.

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