November 21, 2016

BIR RULING NO. 396-16

RA 7279; BIR Ruling No. 003-2016; BIR Ruling No. 243-2016

Goldenville Realty and Development Corporation
3368 Harvard Street, Pinagkaisahan Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 13, 2016, 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. San Jose, Roxas City, Capiz pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted show that National Housing Authority (NHA), Goldenville Realty and Development Corporation, BBB (married to CCC) and DDD (married to EEE), (hereinafter referred to as Landowners) are the registered owners of parcels of land covered by four (4) Original/Transfer Certificates of Title (OCT/TCT) located at Brgy. San Jose, Roxas City, Capiz, to wit:

Landowners	**Lot No.**	**OCT/TCT**	**Area (sq.m.)**
NHA	4073-F-2	097-2016000550	10,000
Goldenville Realty and Development Corporation	4073-E-1	097-2016000083 [1]	106,780
BBB	3513	P-35	3,011
DDD	4073-F-4	T-39972	3,635
		Total Area	123,426

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all issued by the Registry of Deeds for City of Roxas.

The following Deeds of Absolute Sale conveying the abovementioned properties were executed by the landowners to the NHA, a government corporation organized and existing by virtue of Presidential Decree No. 757, as amended:

Landowners	Date of Deed of Absolute Sale	OCT/TCT	Lot No.	Consideration (PhP)	Area (sq.m.)
BBB [2]	May 25, 2016	P-35	3513	150,550.00	3,011
DDD [3]	May 25, 2016	T-39972	4073-F-4	181,750.00	3,635
					6,646

In BIR Ruling No. 110-2016 dated January 6, 2016, it was ruled that the sale by Goldenville Realty and Development Corporation to NHA of the property covered by TCT No. 097-2016000083 is exempt from capital gains tax, documentary stamp tax and value-added tax; and that the above described properties (4 titles) 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 Notice of Award dated December 23, 2015 to Goldenville Realty and Development Corporation (TIN: 000-000-000-000) for the "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Housing Program located at Site 3, Brgy. San Jose, Roxas City, Capiz — 718 Housing Units" with a contract price of _____ Pesos (P_____).

To give effect to the Notice of Award, Contract for the Procurement of Fully Developed Lots and Completed Housing Units (718 Units) at San Jose Ville Housing Project-Site 3, Brgy. San Jose, Roxas City, Capiz was executed on June 2, 2016 between NHA and Goldenville Realty and Development Corporation, whereby the latter is committed to deliver Seven Hundred Eighteen (718) units (House and Lot Package) for a price of P_____; and that according to the contract, the scope of work under this project are "survey works, earthworks, road works, drainage works, water systems, 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:

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"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

"(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

NHA's acquisition of raw land

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The landowner who sells her property 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 subject properties covered by OCT No. P-35 and TCT No. T-39972 are exempt from capital gains tax. (BIR Ruling No. 003-2016 dated January 6, 2016)

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 landowners to NHA of the subject properties covered by OCT No. P-35 and TCT No. T-39972 are likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 003-2016 dated January 6, 2016)

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 subject properties covered by OCT No. P-35 and TCT No. T-39972 by the landowners to NHA for purposes of the Yolanda Permanent Housing Program is exempt from the imposition of VAT. (BIR Ruling No. 003-2016 dated January 6, 2016)

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.

Transaction between NHA and Goldenville Realty and Development Corporation

Considering that Goldenville Realty and Development Corporation is a project contractor whose services are engaged by NHA to undertake construction of 718 Housing Units with its necessary construction components in San Jose Ville Housing Project-Site 3, Brgy. San Jose, Roxas City, Capiz 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

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Goldenville Realty and Development Corporation from the land development and housing construction with its necessary construction components for 718 Housing Units in San Jose Ville Housing Project-Site 3, Brgy. San Jose, Roxas City, Capiz shall be exempt from project-related income taxes. (BIR Ruling No. 243-2016 dated June 7, 2016)

Moreover, pursuant to Section 20 (d) (3) of R.A. No. 7279, the housing construction for 718 Housing Units with its necessary construction components in San Jose Ville Housing Project-Site 3, Brgy. San Jose, Roxas City, Capiz by Goldenville Realty and Development Corporation shall be exempt from VAT. However, the purchases of goods/articles by Goldenville Realty and Development Corporation 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 Goldenville Realty and Development Corporation 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,

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

Footnotes

1. Formerly: TCT No. T-12982; Entry No. 2016000023 dated January 7, 2016, A sale was executed by RRR and SSS, in favor of Goldenville Realty and Development Corporation covering a portion of land with an area of 106,780 square meters for the sum of (P1,601,700.00), in accordance with Doc. No. 233, Page No. 47, Book No. 53, Series of 2015, of Notary Public of Cagayan de Oro City TTT dated May 28, 2015 and Taxes were paid with the amount of P_____ under BIR Certificate of Registration Serial No. 00142604 dated December 4, 2015 by Revenue District Office No. 72.
2. Heirs of BBB and CCC, represented by FFF as evidenced by Deed of Adjudication with Special Power of Attorney dated May 22, 2016, identified as Doc. No. 477, Page No. 97, Book XXVI, Series of 2016.
3. Heirs of DDD (married to EEE) namely: GGG, (married to HHH), III, (married to JJJ), KKK, (married to LLL), MMM, NNN, (married to OOO), PPP and QQQ as evidenced by Extrajudicial Settlement of Estate of the Late Spouses DDD and EEE dated March 30, 2016, identified as Doc. No. 491, Page No. 100, Book XXVI, Series of 2016.

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