November 21, 2016

BIR RULING NO. 400-16

Section 20 of RA 7279; BIR Ruling No. 063-14

R. R. Encabo Constructors Incorporated
No. 40 Ashley St., Fairview North
Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 22, 2016 requesting on behalf of **R. R. Encabo Constructors Incorporated**, for the issuance of Certificate of Tax Exemption for its socialized housing project located in Brgy. Lugta, Laua-an, Antique, under the Yolanda Permanent Housing Project of the National Housing Authority (NHA) pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted show that **R. R. Encabo Constructors Incorporated**, with Taxpayer Identification Number 000-000-000, is a domestic corporation duly organized under the Philippine laws and registered with the Securities and Exchange Commission (SEC), under Company Registration No. CS201111091; and that the NHA (TIN: 000-000-000-000) has issued a Notice of Award dated December 16, 2015 to **R. R. Encabo Constructors Incorporated** for the project, "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Permanent Housing Program Located at Brgy. Lugta, Laua-an, Antique — 770 Housing Units" with a contract price of P_____.

To give effect to the Notice of Award, a Contract for the Procurement of Fully Developed Lots and Completed Housing Units (770 Units), Villa Lugta Nuevo, Brgy. Lugta Laua-an, Antique, was executed on June 21, 2016 between NHA and **R. R. Encabo Constructors Incorporated**, whereby the latter has committed to deliver Seven Hundred Seventy (770) units (House and Lot Package) for and in consideration of the amount of

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P_____; and that the scope of works under the project includes 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 Section 20 of RA No. 7279, pertinent portions of which state that:

> "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

Section 3 (r) of R.A. 7279 defines "socialized housing" as follows:

> "(r) "Socialized housing" refers to housing programs and projects covering houses and lots or homelots only undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and such other benefits in accordance with the provisions of this Act;"

Based on the foregoing, housing projects covering houses and lots or homelots only, including sites development for socialized housing projects, intended for the underprivileged and homeless citizens undertaken by the Government or the public sector, are entitled to exemption from income tax on revenues directly derived therefrom.

Considering that **R. R. Encabo Constructors Incorporated** is a project contractor whose services have been engaged by NHA to undertake the construction of the 770 Housing Units (House and Lot Packages) with its necessary construction components in Villa Lugta Nuevo, Brgy. Lugta, Laua-an, Antique, a housing project under the socialized housing program of the NHA pursuant to R.A. 7279, in connection with its Yolanda Permanent Housing Project, the income directly realized by **R. R. Encabo Constructors Incorporated** from the construction of 770 Housing Units (House and Lot Packages) with

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its necessary construction components, in Villa Lugta Nuevo, Brgy. Lugta, Laua-an, Antique, 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 construction of the 770 Housing Units (House and Lot Packages) with its necessary construction components, in Villa Lugta Nuevo, Brgy. Lugta, Laua-an, Antique, 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.

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

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