November 24, 2016

BIR RULING NO. 408-16

RA No. 7279; BIR Ruling No. 171-15; BIR Ruling No. 063-14

MRRM Trading & Construction
#5 Interior 2 Urbano St., Bagbag,
Novaliches, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated September 5, 2015, requesting issuance of Certificate of Tax Exemption for the socialized housing project known as the "Caibiran Housing Project" under the Yolanda Permanent Housing Program located at Brgy. Cabibihan, Caibiran, Biliran, pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted show that BBB (TIN: 000-000-000-000) and CCC (TIN: 000-000-000-000) are the registered owners (hereinafter collectively referred to as "Landowners") of parcels of land, covered by two (2) Transfer Certificates of Title (TCT) located at Brgy. Cabibihan, Caibiran, Biliran, to wit:

Landowners	**TCT**	**Area (Sq.m.)**
BBB	TC-2293	10,393
CCC	TC-2294	30,000
Total Area		40,393

both issued by the Registry of Deeds for Biliran.

The following Deeds of Absolute Sale conveying the abovementioned properties were executed by the landowners to the National Housing Authority (NHA) (TIN:

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000-000-000-000), a government corporation organized and existing by virtue of Presidential Decree No. 757, as amended:

Landowners/Sellers	OCT	Date of Deed of Absolute Sale	Purchase Price (Php)
BBB	TC-2293	September 3, 2015	_____
CCC	TC-2294	September 3, 2015	_____
Total			_____

The above described properties 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.

On March 31, 2015, the NHA has issued a Notice of Award to MRRM TRADING & CONSTRUCTION (TIN: 000-000-000-000) for the *"Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Permanent Housing Program located at Brgy. Cabibihan, Caibiran, Biliran — 605 Housing Units"* at a contact price of _____ Pesos and 60/100 (P_____).

To give effect to the Notice of Award, a Contract for the Procurement of house and lot packages at Vista del Mar located at Barangay Cabibihan, Caibiran, Biliran was executed on December 14, 2015 by and between the NHA and MRRM TRADING & CONSTRUCTION whereby the number of units was reduced from 605 to 522 and was approved by the General Manager on August 6, 2015; and that MRRM TRADING & CONSTRUCTION has committed to deliver Five Hundred Twenty Two (522) Units (House and Lot Packages) for a contact price of _____ Pesos and 30/100 (P_____); and that pursuant to the contract, the scope of works under this project are Survey Works, Earthworks, Road Works, Drainage Works, Water System, Electrical Power Lines, Miscellaneous Works and Housing Construction.

On January 29, 2016, a Certification was issued by the National Housing Authority-Visayas Management Office, certifying that the raw land properties located at Brgy. Cabibihan, Caibiran, Biliran, being undertaken by MRRM TRADING & CONSTRUCTION is a socialized housing project under the NHA's Yolanda Permanent Housing Program and that the sale of the socialized housing units to qualified beneficiaries shall in no case exceed the maximum amount of P400,000.00 ceiling price.

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA)

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No. 7279, pertinent portions of which state that:

> *"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 Revenue Memorandum Circular (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.*

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xxx xxx xxx

NHA's acquisition of raw land

The landowners who sell their properties for use in a socialized housing project are exempt from the payment of capital gains tax.

Accordingly, the sale by BBB and CCC to NHA of the aggregate area of Forty Thousand Three Hundred Ninety Three (40,393) square meters, more or less, covered by Transfer Certificates of Title (TCT) Nos. TC-2293 and TC-2294 is exempt from the payment of capital gains tax. *(BIR Ruling No. 171-15 dated June 8, 2015)*

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, either on NHA or the party with which NHA is transacting. Accordingly, the sale by the landowners to NHA of the Forty Thousand Three Hundred Ninety Three (40,393) square meters, more or less, covered by Transfer Certificates of Title (TCT) Nos. TC-2293 and TC-2294 issued by the Registry of Deeds for Biliran, is likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. *(BIR Ruling No. 171-15 dated June 8, 2015)*

Moreover, under Section 109 (1) (P) of the Tax Code of 1997, as amended by R.A. No. 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 by the landowners to NHA for purposes of the Yolanda Permanent Housing Program is exempt from the imposition of VAT. *(BIR Ruling No. 171-15 dated June 8, 2015)*

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 are to be applied or are 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 requirement provided under RMO 15-2003.

Transaction between NHA and MRRM TRADING & CONSTRUCTION

Considering that MRRM TRADING & CONSTRUCTION is a project contractor

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whose services are engaged by NHA to undertake construction of 522 Housing Units with its necessary construction components in Caibiran Housing Project, Brgy. Cabibihan, Caibiran, Biliran and which was certified by the NHA as a socialized housing project as resettlement site pursuant to R.A. No. 7279, the income directly realized by MRRM TRADING & CONSTRUCTION from the land development and housing construction with its necessary construction components for 522 Housing Units in Brgy. Cabibihan, Caibiran, Biliran 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 housing construction with its necessary construction components for 522 Housing Units in Caibiran Housing Project, Brgy. Cabibihan, Caibiran, Biliran by MRRM TRADING & CONSTRUCTION shall be exempt from VAT. However, the purchases of goods/articles by MRRM TRADING & CONSTRUCTION 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 MRRM TRADING & CONSTRUCTION must issue non-VAT official 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

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