November 24, 2016

BIR RULING NO. 409-16

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

LAK-K Builders Co.
Units 606 & 609 Jocfer Bldg.
Commonwealth Avenue, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 12, 2016 requesting issuance of Certificate of Tax Exemption for the socialized housing project, Olympus Residences-Sites 1 and 2, located at Brgy. Ochando, New Washington, Aklan, 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 the NHA is the registered owner of two (2) parcels of land situated in Brgy. Ochando, New Washington, Aklan, covered by Transfer Certificate of Title (TCT) Nos. 087-2016001086 and 087-2016001085, with an area of 22,792 sq.m. and 22,791 sq.m., respectively. The said properties have been identified and certified for development into a residential project under the NHA's Yolanda Permanent Housing Program intended for the families affected by Typhoon Yolanda and qualified for housing assistance under RA No. 7279. On June 20, 2016, NHA has issued a Notice of Award to LAK-K Builders Co. (TIN: 000-000-000-000) for the Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Permanent Housing Program.

On June 28, 2016, NHA and LAK-K Builders Co. executed two (2) Contracts for the Procurement of Fully Developed Lots and Completed Housing Units for Olympus Residences, Sites 1 and 2, located at Brgy. Ochando, New Washington, Aklan, whereby the latter has committed to deliver 340 Units for Site 1 and 343 Units for Site 2, for a price of P_____ and _____, respectively. Based on the Contracts, the works contemplated for the above projects are Survey Works, Earthworks, Road Works, Drainage

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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;"

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 LAK-K Builders Co. is a project contractor whose services have been engaged by NHA to undertake the construction of Olympus Residences, Site 1 (340 Units) and Site 2 (343 Units), located in Brgy. Ochando, New Washington, Aklan, a housing project under the socialized housing program of the NHA pursuant to RA 7279, in connection with its Yolanda Permanent Housing Project, the income directly realized by LAK-K Builders Co. from the construction of Olympus Residences, Site 1 (340 Units) and Site 2 (343 Units), with its necessary construction components, 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 RA No. 7279, the construction of

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Olympus Residences, Site 1 (340 Units) and Site 2 (343 Units), by LAK-K Builders Co. shall be exempt from VAT. However, the purchases of goods/articles by LAK-K Builders Co. 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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