November 24, 2016

BIR RULING NO. 411-16

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

Marcbilt Construction Trading & Development Corp./
Verlin Konstruckt, Inc.-Joint Venture
42-e Banahaw St., Cubao, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 26, 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. Parag-um, Carigara, Leyte pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted show that BBB (married to CCC), DDD, EEE (married to FFF), GGG (married to HHH) and III (hereinafter referred to as Landowners) are the registered owners of parcels of land covered by five (5) Original Certificates of Title (OCT) located at Brgy. Parag-um, Carigara, Leyte, to wit:

Landowners	Lot No.	OCT No.	Area (sq.m.)
BBB	3882	OC-1679	11,977
BBB	3881	OC-1678	4,586
DDD [1]	3883	OC-1677	5,902
DDD [2] and EEE	3880	OC-1430	34,087
GGG	3884	OC-1560	4,922
III	3885	OC-8743	21,831
		Total Area	83,305

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all issued by the Registry of Deeds for the Province of Leyte.

On June 27, 2016, a Deed of Absolute Sale was executed whereby the Landowners transferred and conveyed the subject properties to National Housing Authority (NHA) (TIN: 000-000-000-000) at an agreed price of _____ Pesos (P_____).

The NHA has issued Notice of Award dated June 6, 2016 to Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture for the "Procurement of Fully Developed Lots and Completed Housing Units under the NHA's Yolanda Housing Program located at Brgy. Parag-um, Carigara, Leyte — 1,000 Housing Units" with a contract price of _____ Pesos (P_____).

To give effect to the Notice of Award, Contract for the Procurement of Fully House and Lot Packages at Vergabriel's Heights Subdivision, Brgy. Parag-um, Carigara, Leyte was executed on June 27, 2016 between NHA and Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture, whereby the latter is committed to deliver One Thousand (1,000) 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:

> *"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:*

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(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

The landowners who sell their properties 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 Nos. OC-1679, OC-1678, OC-1677, OC-1430, OC-1560 and OC-8743 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 Nos. OC-1679, OC-1678, OC-1677, OC-1430, OC-1560 and OC-8743 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)

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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 Nos. OC-1679, OC-1678, OC-1677, OC-1430, OC-1560 and OC-8743 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 Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture

Considering that Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture is a project contractor whose services are engaged by NHA to undertake construction of 1,000 Housing Units with its necessary construction components in Vergabriel's Heights Subdivision, Brgy. Parag-um, Carigara, Leyte 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 Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture from the construction of 1,000 Housing Units with its necessary construction components in Vergabriel's Heights Subdivision, Brgy. Parag-um, Carigara, Leyte 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 construction of 1,000 Housing Units with its necessary construction components in Vergabriel's Heights Subdivision, Brgy. Parag-um, Carigara, Leyte by Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture shall be exempt from VAT. However, the purchases of goods/articles by Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture 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

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which can be passed on by the seller of the goods/services. It shall be understood that Marcbilt Construction Trading & Development Corp./Verlin Konstruckt, Inc.-Joint Venture 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. Affidavit of One and the Same Person dated June 30, 2016, that DDD and DDD is the same individual as stated in the OCT and Deed of Absolute Sale.
2. *Id.*

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