December 1, 2016

BIR RULING NO. 414-16

Section 20 of RA 7279; BIR Ruling No. 171-15; BIR Ruling No. 063-14

Urban Consolidated Constructors Phils., Inc.
Heart Tower Bldg., 108 Valero Street
Salcedo Village, Makati City

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 20, 2015 requesting issuance of Certificate of Tax Exemption for the socialized housing project, Saint Vincent Village, under the Yolanda Permanent Housing Project located at Brgy. Guinticgan, Carles, Iloilo, pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

It is shown that BBB was the owner of a parcel of land situated in Brgy. Guinticgan, Carles, Iloilo, with an area of 34,760 square meters covered by OCT No. F-4127 issued by the Registry of Deeds for Iloilo City. On May 18, 2015, a Deed of Absolute Sale was executed by and between Miguel AguirreBBB and the NHA wherein the former transferred and conveyed to the latter the above-described property at an agreed price of _____ Pesos (P_____).

The above-described property has 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 R.A. No. 7279. Relative thereto, a Contract dated June 29, 2015 for the Procurement of Fully Developed Lots and Completed Housing Units (1,000 Units) Saint Vincent Village, Brgy. Guinticgan, Carles, Iloilo, was executed between NHA and Urban Consolidated Constructors Phils., Inc. (TIN: 000-000-000-000), whereby the latter has committed to deliver One Thousand (1,000) Housing Units for a price of P_____; and that the works contemplated under the contract is land development to include boundary and

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subdivision survey, road works, drainage works, water supply works, power supply works, housing construction and miscellaneous requirements necessary for the completion of the project.

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:*
>
> *(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*

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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

Sale by the Landowner to NHA

The landowner who sells his 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 BBB of the parcel of land situated in Brgy. Guinticgan, Carles, Iloilo, with an area of 34,760 square meters, covered by OCT No. F-4127, is exempt from the capital gains tax. (BIR Ruling No. 171-2015 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. Accordingly, the transfer by BBB of the parcel of land situated in Brgy. Guinticgan, Carles, Iloilo, with an area of 34,760 square meters, covered by OCT No. F-4127, is exempt from the documentary stamp tax. (BIR Ruling No. 171-2015 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 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 Urban Consolidated Constructors Phils., Inc. and NHA

Considering that Urban Consolidated Constructors Phils., Inc. is a project contractor whose services have been engaged by the NHA to undertake construction of 1,000 Housing Units with its necessary construction components in Saint Vincent Village, Brgy. Guinticgan, Carles, Iloilo, a socialized housing program of the NHA pursuant to R.A. 7279 in connection with its Yolanda Permanent Housing Project, the income directly realized by Urban Consolidated Constructors Phils., Inc. from the construction of 1,000 Housing Units with its necessary construction components in Saint Vincent Village, Brgy. Guinticgan,

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Carles, Iloilo, 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 1,000 Housing Units (House and Lot Packages) with its necessary construction components in Saint Vincent Village, Brgy. Guinticgan, Carles, Iloilo by Urban Consolidated Constructors Phils., Inc. shall be exempt from VAT. However, the purchases of goods/articles by Urban Consolidated Constructors Phils., Inc. 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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