December 19, 2016

BIR RULING NO. 440-16

RA 7279; BIR Ruling No. 243-2016

Bullet Construction and Construction Supply
Purok 5, Brgy. Magang
Daet, Camarines Norte

Attention: *AAA*

Gentlemen :

This refers to the letter dated May 23, 2016 of Romuel P. Alimboyao, Department Manager, Reg. 3, Northern and Central Luzon Management Office of the NHA, requesting issuance of Certificate of Tax Exemption for the San Miguel Heights Housing Project located at Brgy. Malibay, San Miguel, Bulacan 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) is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 039-2015003278 [1] issued by the Registry of Deeds for Province of Bulacan (Guiguinto). The aforesaid property is situated at Brgy. Calumpang, San Miguel, Bulacan with an area of Twenty Eight Thousand Three square meters (28,003 sq.m.), more or less.

The above described property has been identified and certified for development into a residential project for the purpose of developing it into a socialized housing project.

On November 19, 2012, a Contract Agreement was executed by and between Bullet Construction and Construction Supply and San Miguel Heights Homeowners Association, Inc., a homeowner's organization registered with the Housing and Land Use Regulatory Board (HLURB) with Certificate of Registration No. 19257, whereby the former has offered to sell the developed lots and completed housing units under the Community Initiative Approach Program (CIAP) of the NHA for _____ Pesos (P_____) [2] for every developed lot and completed housing unit per family.

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Moreover, on December 3, 2012, a Memorandum of Agreement [3] (MOA) was executed by and among, Bullet Construction and Construction Supply, as the landowner/developer/constructor, San Miguel Heights Homeowners Association, Inc., as the beneficiary, [4] and the NHA, as the lead agency in the implementation of the National Resettlement Programs of the government and to ensure the timely, peaceful and orderly relocation and resettlement of the families of the informal settler families living in danger areas, affected by calamities and those affected by clearing of waterways, esteros and infrastructure projects of the Quezon City Government and other national government agencies.

Under the MOA, members [5] of San Miguel Heights Homeowners Association, Inc. shall be provided by the NHA with a financial grant for the acquisition of 200 developed lots and 200 completed housing units in the amount not to exceed One Hundred Thousand Pesos (P100,000.00) per developed lot and Seventy Five Thousand Pesos (P75,000.00) per completed housing units.

On December 19, 2014 and May 19, 2016, Bullet Construction and Construction Supply and the NHA executed a Deed of Absolute Sale and Amended Deed of Absolute Sale whereby the former, transferred and conveyed 200 developed lots under Batch 1 with an aggregate area of Eight Thousand Two Hundred Fourteen square meters (8,214 sq.m.) to NHA at an agreed price of _____ Pesos (P_____).

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;*

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(2) Capital Gains Tax;

(3) Value-Added Tax for the project contractor concerned;"

the landowner/developer of properties who sell its properties for use in a socialized housing project are exempt from the payment of the capital gains tax and project-related income taxes.

Such being the case, ***the sale of 200 developed lot packages on the 8,214 sq.m. portion of the subject property covered by TCT No. 039-2015003278*** by Bullet Construction and Construction Supply to NHA is exempt from capital gains tax, project-related income taxes and consequently from withholding tax. (BIR Ruling No. 036-2014 dated January 29, 2014)

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

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 transfer of Bullet Construction and Construction Supply to NHA of the ***200 developed lot packages on the 8,214 sq.m. portion of the subject property covered by TCT No. 039-2015003278*** are likewise exempt from documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended. (BIR Ruling No. 036-2014 dated January 29, 2014)

Upon application for exemption, a lien on the title of the land shall be annotated by

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the Register of Deeds having jurisdiction over the property, 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 land 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 RMO 15-2003.

Pursuant to Section 20 (d) (3) of RA 7279, the transfer/sale by Bullet Construction and Construction Supply of ***200 developed lot packages on the 8,214 sq.m. portion of the subject property covered by TCT No. 039-2015003278*** in favor of NHA shall be exempt from VAT. However, its purchases of goods/articles 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. Moreover, it shall be understood that Bullet Construction and Construction Supply 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. Formerly: TCT No. RT-67716 under the name of Nazarena M. Casamis.
2. P_____ per lot and P_____ per completed housing unit.
3. For financing the acquisition of developed lots and financing the acquisition of completed housing units (San Miguel Heights Housing Project, Brgy. Malibay, San Miguel, Bulacan).
4. See Annex list of beneficiaries consisting of seven (7) pages.
5. Composed of members/families living in danger areas, affected by calamities and those affected by clearing of waterways, esteros and infrastructure projects of the Quezon City Government and other national government.

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