December 19, 2016

BIR RULING NO. 444-16

R.A. 7279; BIR Ruling No. 291-13

Farm Masters Realty, Inc.
Brgy. Pulong Bayabas,
San Miguel, Bulacan

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 15, 2015 requesting, on behalf of **FARM MASTERS REALTY, INC.**, exemption from taxes on its sale of housing units under its socialized housing project known as **"Farm Masters Village,"** pursuant to Republic Act (RA) No. 7279 or the **"Urban Development and Housing Act of 1992."**

Documents submitted show that **FARM MASTERS REALTY, INC.**, with Tax Identification Number (TIN) 000-000-000-000, is a domestic corporation engaged in real estate business and registered with the Securities and Exchange Commission (SEC) under SEC Registration No. 99011; that at present, it has a housing project, "Farm Masters Village," comprising of one hundred twenty (120) socialized housing units, one-storey rowhouse, with an average floor area of twenty two (22) sq.m. and lot area of thirty four (34) sq.m., and sixty seven (67) economic housing units; that the aforesaid project is duly registered with the Housing and Land Use Regulatory Board (HLURB) with Certificate of Registration No. 25418 issued on January 21, 2014 and License to Sell No. 28692 issued on same date; that the selling price per sale transaction of the house and lot does not exceed P450,000.00; that per Certification issued by the HLURB, Region III, **FARM MASTERS REALTY, INC.** is engaged in Socialized Housing Development for its project, "Farm Masters Village" located at Pulong Bayabas, San Miguel, Bulacan, covering 120 socialized housing units; and that the following units are credited as Socialized Housing compliance per Sec. 18 of RA 7279 for Farm Masters Village, *viz.*:

Blocks	Lots

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25	3-15
26	3-18
28	2, 3, 5-7
29	7-12
Total	40 lots

In reply, please be informed that **Section 20 of RA No. 7279**, provides:

"**Sec. 20. Incentives for the 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."

Accordingly, since **FARM MASTERS REALTY, INC.** is engaged in a socialized housing project, its sale of the **120** socialized housing units in "Farm Masters Village" located at Pulong Bayabas, San Miguel, Bulacan shall be exempt from income tax, and consequently, from creditable expanded withholding tax prescribed under Revenue Regulations (R.R.) No. 2-98, as amended. However, **FARM MASTERS REALTY, INC.** must require its buyers to execute a sworn statement that the buyer is eligible as a socialized housing beneficiary pursuant to **Section 5 (A) of R.R. No. 11-97**, to wit:

"SEC. 5. Requirements/Conditions for the Availment of Tax Incentives/Exemptions. —

(A) To qualify for socialized housing program, a beneficiary

1. must be a Filipino citizen;

2. must be an underprivileged and homeless citizen, as defined in Section 3(t) of the Act and Section 2(r) of these Regulations;

3. must not own any real property, whether in the urban or rural areas; and

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4. *must not be a professional squatter or a member of squatting syndicates."*

In this connection, any sale made by the owner and developer to interested parties other than the principal target beneficiaries under Sections 3 (t) and 16 of RA No. 7279, shall not be entitled to the foregoing tax exemption should there be non-compliance with any of the afore-stated *sine qua non* terms and conditions. The developer shall submit the said sworn statement to the BIR during the processing of the Certificate Authorizing Registration (CAR) for the transfer of the socialized housing unit. ***(BIR Ruling No. 291-2013 dated July 29, 2013)***

Moreover, documentary stamp tax is not one of the taxes covered by the tax exemption clause in Section 20 of RA No. 7279. Such being the case, the sale of the **120** socialized housing units in "Farm Masters Village" shall be subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997, as amended, based on the consideration contracted to be paid for such realties or on their fair market value determined in accordance with Section 6 (E) of the said Code, whichever is higher. ***(BIR Ruling No. 291-2013 dated July 29, 2013)***

Under Section 20 (d) (3) of RA 7279, the sale of a socialized housing as defined therein shall also be exempt from the payment of value-added tax (VAT). Thus, the sale by **FARM MASTERS REALTY, INC.** of the **120** socialized housing units in "Farm Masters Village," a socialized housing project duly certified by the HLURB, shall also be exempt from value-added tax. 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 **FARM MASTERS REALTY, INC.** must issue non-VAT official receipts on its gross receipts from the said socialized housing project.

Upon application for exemption, a lien on the title of the land shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the same is to be applied or is being applied to a 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.

This ruling is being issued on the basis of the foregoing facts as represented.

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However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

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