March 14, 2018

BIR RULING NO. 492-18

Sec. 20, R.A. No. 7279; BIR Ruling No. 314-14; BIR Ruling No. 284-14

Borland Development Corporation
1216 Luwasan Zone 4, National Road,
Brgy. Muzon, San Jose Del Monte City,
Bulacan 3023

Attention: *AAA*

Gentlemen :

This refers to your letter dated November 16, 2015, requesting Certificate of Tax Exemption on the sale of socialized housing units for the Mountain View Homes Project in Barangay San Miguel, Sto. Tomas, Batangas, pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted show that BORLAND DEVELOPMENT CORPORATION, with Taxpayer's Identification No. 000-000-000-000, is a corporation duly organized and existing under Philippine laws; that it is registered with the Securities and Exchange Commission (SEC) under Registration No. 175300 engaged in real estate business; that it is the owner of four (4) parcels of land and developer of a housing project known as "Mountain View Homes" located at Barangay San Miguel, Sto. Tomas, Batangas, which shall be used for its socialized housing project, the pertinent details of which are as follows, to wit:

TCT No.	Area (Sq.m.)
056-2015002759	50,000
056-2015002761	5,135
056-2015002763	12,368
056-2015002773	4,934
Total	**72,437**

that the project is duly registered with the Housing and Land Use Regulatory Board

Copyright 2020 CD Technologies Asia, Inc.

(HLURB) under Certificate of Registration No. 26838 dated September 18, 2015, with License to Sell No. 030486 dated September 18, 2015, both issued by the HLURB Southern Tagalog Region, Dencris Business Center, Brgy. Halang, Calamba City for 995 lots & units for socialized housing, to wit:

Mountain View Homes
HLURB Certificate of Registration No. 26838
License to Sell No. 030486
(995 lots/units)

NON-SALEABLE AREAS:

PARKS/PLAYGROUND:

Block 7, Lot 9
Block 23, Lot 1

COMMUNITY FACILITIES:

Block 7, Lot 10
Block 2, Lot 26 (Drainage Ally)

EXCLUDED PORTION:

Block 24, Lot 1
Block 7, Lot 11
Block 23, Lots 2 & 3

RESERVED AREAS:

Block 1, Lot 40
Block 2, Lots 25 & 26
Block 3, Lot 25
Block 4, Lots 57, 59, 79 & 80
Block 5, Lots 49 & 50
Block 6, Lots 45 & 46
Block 7, Lot 12
Block 8, Lot 58
Block 9, Lots 49 & 50
Block 10, Lots 45 & 46
Block 11, Lot 58
Block 12, Lots 49 & 50
Block 13, Lots 45 & 46
Block 14, Lot 58
Block 15, Lot 50
Block 16, Lots 45, 46 & 50
Block 17, Lot 60
Block 18, Lots 49 & 50
Block 19, Lot 46

Copyright 2020 CD Technologies Asia, Inc.

Block 21, Lots 59 & 60
Block 22, Lots 49 & 50

and that the project is categorized as a socialized housing project as certified by the Regional Officer, Housing and Land Use Regulatory Board (HLURB), Southern Tagalog Region.

In reply, please be informed that Section 20 of R.A. No. 7279, reads:

"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."

xxx xxx xxx

Only the sale of socialized housing units to qualified beneficiaries shall be exempt from income tax, and consequently from creditable expanded withholding tax prescribed under Revenue Regulations (R.R.) No. 2-98, as amended.

Thus, a buyer of a socialized housing unit shall be required by the developer/owner/seller to execute a sworn statement that he is eligible as a socialized housing beneficiary provided under Section 5 (A) of R.R. No. 11-97.

Section 5 (A) of R.R. No. 11-97 provides that:

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

A. To qualify for socialized housing program, a beneficiary

(a) must be a Filipino citizen;

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

(c) must not own any real property, whether in the urban or rural areas; and

Copyright 2020 CD Technologies Asia, Inc.

(d) 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 R.A. No. 7279, shall not be entitled to the foregoing tax exemption should there be non-compliance with any of the aforestated *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. 314-14 dated August 11, 2014)*

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation of real property, the actual selling price per sale transaction of the house and lot packages in this case does not really exceed P450,000.00 and P180,000.00 for lot only. Thus, sale of a house and lot or lot only above the maximum amount shall be subject to the corresponding internal revenue taxes.

Nonetheless, it is observed that documentary stamp tax is not one of the taxes covered by the tax exemption clause in Section 20 of R.A. No. 7279. Such being the case, the owner/project developer/seller shall be liable to pay the documentary stamp tax on the documents conveying the properties 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.

Pursuant to Section 20 of R.A. No. 7279, a project contractor of a socialized housing project shall also be exempt from the payment of value-added tax (VAT) on the project concerned. Relative thereto, Section 4.109-1 (B) (1) (p) (3) of RR No. 16-2005 states that:

> "Section 4.109-1. *VAT-Exempt Transactions. — (A) In general.* — "VAT-exempt transactions" refer to the sale of goods or properties and/or services and the use or lease of properties that is not subject to VAT (output tax) and the seller is not allowed any tax credit of VAT (input tax) on purchases.
>
> xxx xxx xxx
>
> (B) *Exempt transactions.* — (1) Subject to the provisions of Subsection
>
> (2) hereof, the following transactions shall be exempt from VAT:
>
> xxx xxx xxx
>
> (p) The following sales of real properties are exempt from VAT, namely:

xxx xxx xxx

(3) Sale of real properties utilized for socialized housing as defined under R.A. No. 7279, and other related laws, such as R.A. No. 7835 and R.A. No. 8763, wherein the price ceiling per unit is P225,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws. . . ."

Furthermore, pursuant to HUDCC Resolution No. 1, Series of 2013, dated October 16, 2013 and as circularized by Revenue Memorandum Circular No. 035-14, pertinent portion of which reads:

"THEREFORE BE IT RESOLVED, AS IT IS HEREBY RESOLVED that the price ceiling for horizontal socialized housing be adjusted from P400,000.00 to P450,000.00."

the newly adjusted price ceiling of P450,000.00 for socialized housing shall apply to sale of real properties utilized for socialized housing, as defined under R.A. No. 7279 otherwise known as "Urban Development and Housing Act," and other related laws such as R.A. No. 7835 otherwise known as the "Comprehensive and Integrated Shelter Financing Act of 1994" and R.A. No. 8763 otherwise known as the "Home Guaranty Act of 2000," beginning December 18, 2013.

Moreover, Section 2 of Revenue Regulations No. 17-2001 provides:

Section 2. Definition of Terms. — As used in these Regulations, the following terms shall have the following meaning:

xxx xxx xxx

"A socialized housing unit shall not exceed P150,000.00 (now P450,000.00) for a house and lot package, subject to periodic adjustment or increase as the Housing and Land Use Regulatory Board (HLURB) may effect from time to time. In the case of sale of homelots only, the price shall not exceed forty percent (40%) of the maximum limit prescribed for the house and lot package." (Emphasis supplied)

The developer of the socialized housing units under R.A. No. 7279 is exempt from the payment of VAT pursuant to the aforecited provision. However, purchases of goods/articles by the project contractor shall be subject to Value-Added Tax, even if the said purchases are to be used for the socialized housing project. Moreover, it shall be understood that it must issue non-VAT official receipts on its gross receipts from the said socialized housing project. *(BIR Ruling No. 284-14 dated July 9, 2014)*

Accordingly, sale by BORLAND DEVELOPMENT CORPORATION of the House and Lot/Units in Mountain View Homes project, covered by HLURB License to Sell No. 030486 (for 995 lots & units-socialized housing) not exceeding the price ceiling of P450,000.00 (house and lot package) and P180,000.00 (homelots only) to qualified beneficiaries, is exempt from income tax and, consequently, from creditable expanded

Copyright 2020 CD Technologies Asia, Inc.

withholding tax and from VAT pursuant to R.A. 7279.

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

Copyright 2020 CD Technologies Asia, Inc.