April 11, 2018

BIR RULING NO. 647-18

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

LYRR Realty Development Corporation
Door 3, Nagaland Hotel,
E. Angeles St., Naga City

Attention: *AAA*

Gentlemen :

This refers to your letter dated January 3, 2011 requesting, on behalf of **LYRR Realty Development Corporation ("LYRR")**, exemption from taxes on its sale of housing units under its socialized housing project, **"Deca Homes Langon Vista,"** pursuant to Republic Act (RA) No. 7279 or the "Urban Development and Housing Act of 1992."

Documents submitted show that **LYRR Realty Development Corporation ("LYRR")**, 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. CS200731859 dated December 7, 2007; that it is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 57252 of the Registry of Deeds for Naga City, located at Sitio Langon, Brgy. Cararayan, Naga City, with a total land area of 67,119 sq. m.; that **LYRR** is developing the said land for its housing project called **Deca Homes Langon Vista** registered as a socialized housing project with the Housing and Land Use Regulatory Board (HLURB) based on the Certification dated March 15, 2012 issued by the HLURB, Region V.

The above-named socialized housing project is covered by HLURB License to Sell No. 22270 covering 1,074 [1] House and Lot Packages with maximum selling price of P400,000.00 (House and Lot Package). The following units, however, are credited as Socialized Housing compliance per Sec. 18 of RA 7279 for Deca Homes-Grandvale Residences located at Brgy. San Felipe, Naga City, *viz.*:

Blocks	Lots

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24	1 to 28 & 30-56
25	1 to 26 & 28-53
26	1 to 24 & 26-49
27	all lots
28	19 to 41
Total	201 lots

The following units are also credited as Socialized Housing counterpart for DECA HOMES NORTHFIELD ESTATES SUBDIVISION located at Bagumbayan Norte, Naga City, to wit:

Blocks	Lots (Psd-05-041993)
19	35-61
21	1-28
22	1-31
23	1-35
28	1-18
Total	139 lots

The remaining number of house and lot packages intended for the **Deca Homes Langon Vista** is **734**.

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."

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Based on the above provision, the sale of socialized housing units which, in this case, covers **734** house and lot packages, 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 as 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

(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 RA 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."

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 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. *(BIR Ruling No. 291-2013 dated July 29, 2013)*

Furthermore, 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 **LYRR** of house and lot packages valued at Four Hundred Thousand Pesos (P400,000.00) and below, on its housing project **Deca Homes Langon Vista**,

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covering **734** house and lot packages, 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 **LYRR** 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.

It is 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 PhP400,000.00. Thus, the sale of a house and lot or lot only above the maximum amount shall be subject to the corresponding internal revenue taxes.

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

Footnotes

1. Please see attached Master List of Buyers consisting of twenty one (21) pages.

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