REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

RA 7279
BIR Ruling No. 005-11
507-2017

1-6-2017

NAPICO HOMEOWNERS ASSOCIATION II, INC.
#1827 Upo St., NAPICO, Manggahan,
Pasig City

Attention: **Ernesto A. Vallota Sr.**
President

Gentlemen:

This refers to your letter dated October 17, 2016 requesting exemption from the payment of taxes relative to the transfer of title of land from Napico Homeowners Association II, Inc. in favor of its qualified member-beneficiaries[1] pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992".

It is represented that Napico Homeowners Association II, Inc., with Taxpayer's Identification No. is the registered owner of a parcel of land, with an area of 386 square meters, covered by Transfer Certificate of Title No. issued by the Registry of Deeds for the City of Pasig; that it is a non-stock, non-profit organization duly registered with the Home Insurance and Guaranty Corporation under Registration No. ; that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP), with the National Housing Authority (NHA) as Originator, per Certification dated October 14, 2016 issued by the Social Housing Finance Corporation (SHFC); that based on same Certification, said project was taken-out/paid on March 22, 2002 in the loan amount of Php , and that Napico Homeowners Association II, Inc., is now in the process of subdividing the subject parcel of land in favor of its member-beneficiaries.

In reply, please be informed that the transfer of the subdivided lots in favor of the individual members-beneficiaries of the Association is not subject to either the capital gains tax (CGT) imposed under Section 27 (D) (5) of the Tax Code of 1997, as amended, or the creditable withholding tax (CWT) imposed under Revenue Regulations (RR) No. 2-98, as amended, considering that said transfer is being made without any monetary consideration. The transfer is only a formality to finally effect the transfer of the subject property to its member-beneficiaries who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its member-beneficiaries who actually own the same.

[1] Please see attached Masterlist of Beneficiaries consisting of seven (7) pages and containing 135 beneficiaries.

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Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent on the part of the Association to donate the property to its members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves.

It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold are granted, assigned, transferred, or otherwise conveyed to a purchaser or purchasers or to any other person or persons designated by such purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchasers are actually the owners thereof. Besides, no consideration is involved in said transaction upon which the tax imposed could be based. Accordingly, the transfer of the subdivided lots in favor of the beneficiaries is not subject to DST under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997.

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO 15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction in this case does not exceed for house and lot and for lot only for each qualified beneficiaries. *(BIR Ruling No. 005-11 dated January 19, 2011)*

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,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[2] HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013, approving the adjustment of price ceiling for horizontal socialized housing from per house and lot to