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

Section 101 (A)(3) of the Tax Code of 1997;
BIR Ruling No. 376-12;
BIR Ruling No. 353-12;
BIR Ruling No. 499-11.
#324-2016
6-29-2016

ROMAN CATHOLIC BISHOP OF PARAÑAQUE, INC.
Diocesan Center for Evangelization,
No. 8 Villonco Road, West Service Road (Km. 21),
Sucat, Muntinlupa City

Attention : **Most Rev. Jesse E. Mercado, D.D.**
Bishop of Parañaque

Gentlemen:

This refers to your letter dated December 17, 2012, requesting for a confirmation on the exemption of Donor's Tax and Documentary Stamp Tax relative to the Deed of Donation made and executed by **Greenfield Development Corporation** in favor of **Roman Catholic Bishop of Parañaque, Inc.** pursuant to Section 101 (A)(3) of the Tax Code of 1997, as amended.

Documents submitted show that **Greenfield Development Corporation** (hereinafter referred to as the "Donor"), with Taxpayer's Identification No. (TIN) , is a corporation duly organized and existing under Philippine laws and registered with the Securities and Exchange Commission (SEC) under Registration No. that the donor is represented by Mr. Jeffrey D.Y. Campos and Mr. Mariano John L. Tan, Jr. who were duly authorized by the Board of Directors to execute the Deed of Donation; that the donee, **Roman Catholic Bishop Of Parañaque, Inc.** with Taxpayer's Identification No. is a corporation sole organized and existing in accordance with the laws of the Philippines and registered with the Securities and Exchange Commission (SEC) under Registration No. that the donor is the registered owner of a parcel of land more particularly described as follows:

> *A parcel of land otherwise known as Lot 1-B, Psd-0083592, situated in Brgy. Cupang, Muntinlupa City, containing an area of Four Hundred Ninety One (491) square meters, and duly covered with Transfer Certificate of Title No. 150918;*

that a Deed Donation was executed on December 7, 2012 whereby **Greenfield Development Corporation** donated the aforementioned property in favor of **Roman Catholic Bishop of Parañaque, Inc.** represented by Most Reverend Jesse E. Mercado,

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D.D.; that the donee accepted the donation under the conditions set forth as embodied in the Deed of Donation.

In reply, please be informed that Sec. 101 (A)(3) of the Tax Code of 1997, as amended provides:

> *" SEC. 101. Exemption of Certain Gifts.– The following gifts or donations shall be exempt from the tax provided for in this Chapter:*
>
> *(A) In the Case of Gifts made by a Resident.–*
>
> xxx xxx xxx
>
> *(3) Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited non-governmental organization, trust or philanthropic, organization or research institution or organization: Provided, however, that not more than thirty percent (30%) of said gifts shall be used by such done for administrative purposes..."*

Hence, inasmuch as donee, **Roman Catholic Bishop of Parañaque, Inc.** is a corporation sole and that the donated property is to be exclusively devoted for religious purposes, donation to it is exempt from the payment of donor's tax pursuant to Section 101 (A)(3) of the Tax Code of 1997 , as amended, subject to the condition that not more than 30% of said gift shall be used by the donee for administration purposes. In case of donation of real property, the Register of Deeds shall annotate this condition at the back of the title because failure to comply with the said condition shall subject the donation to donor's tax. Section 185 of Regulations No. 26, otherwise known as the Revised Documentary Stamp Tax Regulations, implementing Title VII of the NIRC, provides that conveyances of realties not in connection with a sale, to trustees or other persons without consideration are not taxable. *(BIR Ruling No. 376-12 dated June 6, 2012)*

Accordingly, the deed of donation is likewise not subject to the documentary stamp tax prescribed under Section 196 of the Tax Code of 1997, but only to the documentary stamp tax of P15.00 imposed under Section 188 of the same Tax Code. *(BIR Ruling No. 353-12 dated May 21, 2012)*

The donation is, however, subject to value-added tax (VAT) since the donor is a vat-registered real estate developer and the donated properties are deemed ordinary assets.

If the donor is a Value-Added Tax (VAT) registered person and the donation is an ordinary asset, the donation is subject to VAT pursuant to Section 4.106-7 of Revenue Regulations (RR) No. 16-2005, the same being considered a transaction deemed sale, but the input VAT attributed to the VAT portion of the cost of the donation should be deducted from accumulated input VAT of the donor. If the donor is not a VAT registered person, the donation is exempt from VAT. *(BIR Ruling No. 499-11 dated December 15, 2011)*

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It is to be noted that if the same properties acquired by gift are subsequently conveyed by way of sale or exchange, the sale will be subject to corporate income tax on the gain realized which is determined by deducting from the gross selling price the historical cost or the adjusted basis thereof, as it would be in the hands of the donor, pursuant to Section 27 in relation to Section 101, both of the Tax Code of 1997, as amended, and consequently to the creditable expanded withholding tax under Section 2.57.2 of RR No. 2-98, as amended. If **Roman Catholic Bishop of Parañaque, Inc.** donates same properties donated to it to non-exempt donee, it shall be liable for donor's tax pursuant to Section 98 of the Tax Code of1997, as amended.

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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