REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA7279
BIR Ruling No. 100-11
#263-2018

2-23-2018

Ma. Luz S. Ysatam
Project Manager
Iloilo Project Office
NHA Building, Brgy. Bakhaw
Mandurriao, Iloilo City

Dear Taxpayer:

This refers to the indorsement of Revenue Region No. 11-Iloilo City dated March 28, 2016 requesting for an exemption from payment of donor's tax on the grant of free residential lot by the National Housing Authority (NHA) in favor of Spouses Miguel Sampane Militar/Merlyn Balinton Diaz being tenant-families affected by expropriation of parcels of land pursuant to Republic Act (RA) No. 7279 otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted disclose that the NHA is the registered owner of a parcel of land, identified as Lot 11, Block 38, of the cons. subd. plan, Pcs- covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for Iloilo. The aforesaid property is situated at Brgy. Bolilao, Mandurriao, Iloilo City with an area of square meters (sq.m.), more or less; that on December 14, 2015, the NHA and Spouses Miguel Sampane Militar/Merlyn Balinton Diaz executed a Deed of Conveyance and Acceptance of Free Residential Lot whereby NHA transferred and conveyed the subject property to Spouses Miguel Sampane Militar/Merlyn Balinton Diaz at no cost, subject to the following restrictions and conditions, that the said properties shall be exclusively utilized for residential purposes and not for any other purposes; that the lot or any part thereof cannot be alienated, transferred, sold, leased or in any manner encumbered or disposed of without written consent of NHA; that the above mentioned lot shall revert back to the NHA should the above conditions are violated; and the foregoing restrictions and conditions may be cancelled after ten (10) years from the issuance of the TCT.

In reply, please be informed that Section 19 of Republic Act (RA) No. 7279, otherwise known as the Urban Development and Housing Act of 1992 provides as follows:

> "Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title."

Under the foregoing provisions, NHA enjoys exemption from all forms of taxation. Thus, at the time of the transfer of the above-stated property, NHA was not liable to pay any kind of taxes, fees and charges. Section 19 of RA 7279, gives incentives to the NHA, as the entity tasked by the National Government to carry out the purposes of RA 7279, in the form of exemptions from the payment of all national taxes, such as income tax and the corresponding creditable withholding tax or the capital gains tax, donor's tax including exemptions from documentary stamp taxes upon documents or contracts executed by and in favor of the NHA. *(BIR Ruling No. 100-11 dated April 6, 2011)*

Pertinent portions of RMC No. 42-01 dated October 5, 2001, provide, viz.:

> "A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:
>
> xxx xxx xxx
>
> (2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA", the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.

The exemption from documentary stamp tax of NHA in connection with any of its socialized housing project extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, the transfer by NHA of its real property in favor of Spouses Miguel Sampane Militar/Merlyn Balinton Diaz is exempt from the payment of documentary stamp tax under Section 196 of the Tax Code of 1997, as amended. *(BIR Ruling No. 100-11 dated April 6, 2011)*

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 lands 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 Revenue Memorandum Order (RMO) No. 15-2003.

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Moreover, upon issuance of this letter of exemption, and upon registration of the document of sale, a lien on the Certificates or Title of the land to be issued in the name of Spouses Miguel Sampane Militar/Merlyn Balinton Diaz shall be caused to be annotated by the Register of Deeds having jurisdiction over the properties, to the effect, that the said properties shall be used for socialized housing pursuant to RA 7279, that the said properties shall be exclusively utilized for residential purposes and not for any other purposes; that the lot or any part thereof cannot be alienated, transferred, sold, leased or in any manner encumbered or disposed of without written consent of NHA; that the above mentioned lot shall revert back to the NHA should the above conditions are violated; and the foregoing restrictions and conditions may be cancelled after ten (10) years from the issuance of the TCT. *(BIR Ruling No. 100-11 dated April 6, 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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