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

RA 7279; RMC 35-2014
BIR Ruling No. 314-2014 BIR Ruling No. 291-2013
#349-2017
8-7-2017

Central Luzon Basic Homes, Inc.
MacArthur Highway cor. La Aldea Rd.
Brgy. Ilang Ilang, Guiguinto, Bulacan

Attention : Mr. Robert Marie C. Sy
President

Gentleman:

This refers to your letter dated May 6, 2015 requesting in effect, for exemption from taxes pursuant to the provisions of Republic Act (R.A.) No. 7279 or the "Urban Development and Housing Act of 1992".

Documents submitted show that Irene S. de Castro (TIN), Reynaldo de Castro (TIN) and Elvira de Castro-Weiss (TIN) are the registered owners of a parcel of land covered by Transfer Certificate of Title (TCT) No. located at Brgy. Tabang, Guiguinto, Bulacan with an area of 15,734 sq.m. On the other hand, Central Luzon Basic Homes Inc. (CLBHI) with Tax Identification No. is a domestic corporation duly registered under Philippine laws. In a Deed of Absolute Sale dated April 7, 2015, the afore-named owners sold a portion of their property (13,435 sq.m.) to CLBHI for the amount of P (the above-stated lot is now covered by TCT No.). The subject property will form part of the 20,536 sq.m. socialized housing project of CLBHI, the other portion has an area of 7,101 square meters and also subject of an application for tax exemption under Case Docket No. devoted to 397 socialized housing units known as Ylang Ylang Homes II. The project is covered by HLURB Certificate of Registration No. , while the 397 socialized housing units are covered by HLURB License to Sell No.

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:
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> x x x x x x x x x
>
> (d) Exemption from the payment of the following:
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> x x x x x x x x x
>
> (1) Project-related income taxes;
> (2) Capital gains tax;
> (3) Value-added tax for the project contractor concerned;"

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Only the sale of socialized housing units to qualified beneficiaries shall be exempt from income taxes, 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

(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. 291-13 dated July 29, 2013)*

It is, however, understood that the 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 and 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. 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 R.R. 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

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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 RA No. 7279, and other related laws, such as RA No. 7835 and RA No. 8763, wherein the price ceiling per unit is 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, promulgated on October 16, 2013 approving the adjustment of price ceiling for socialized housing, and as circularized by Revenue Memorandum Circular (R.M.C.) No. 35-2014, 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."

thus, beginning December 18, 2013[1], the newly adjusted price ceiling of P450,000.00 for horizontal socialized housing shall apply to sale of real properties utilized for horizontal 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".

Moreover, Section 2 of R.R. 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 per HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013) for a house and lot package, subject to periodic adjustment or increase as the Housing and Land Use Regulatory Board (HLURB) may

[1] HUDCC Resolution No. 1 Series of 2013 took effect on December 18, 2013 after having satisfied the publication requirement as circularized by HUDCC Memorandum Circular No. 01 Series of 2014.

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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."

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 VAT, even if the said purchases are to be used for the socialized housing project. Moreover, it shall be understood that the developer must issue non-VAT official receipts on its gross receipts from the said socialized housing project. *(BIR Ruling No. 314-2014 dated August 11, 2014)*

Accordingly, the sale of the 397 socialized lots/units in Ylang Ylang Homes II covered by HLURB License to Sell No. to qualified beneficiaries are exempt from income taxes and, consequently, from creditable expanded 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 ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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