REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Republic Act (RA) No. 7279, as amended by RA No. 10884
CTE No. NSH-623-2020; BIR Ruling No. 011-2018; BIR Ruling No. 426-2012;
NSH-358-2022
AUG 04 2022

NATIONAL HOUSING AUTHORITY
Quezon Memorial Elliptical Road
Diliman, Quezon City

Attention: **Mr. Luis S. Bacamante**
Regional Manager
NCR-South Sector

Gentlemen:

This refers to your request for exemption from any taxes that may be incurred on the transfer of ownership of certain parcels of land from the Republic of the Philippines (ROP) / Manila International Airport Authority (MIAA) to the National Housing Authority (NHA), and exemption from tax relative to the Titling Works project of the NHA, pursuant to Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Background:

Pursuant to Presidential Proclamation (PP) No. 144 dated January 18, 2002, as amended by PP No. 391 dated May 28, 2003, certain parcels of land situated in Parañaque City and Pasay City, titled in the name of the ROP under the administration of MIAA, have been proclaimed and declared the same open for disposition to actual occupants by the NHA, to wit:

Transfer Certificate of Title (TCT) No/s.	Lot No/s.	Area (sq. m.)	Location
			Sitio San Juan, Parañaque City
			Sitio Sta. Rita, Parañaque City
			Sitio Maligaya, Parañaque City
			Sitio Puyat Compound, Parañaque City
			Bo. Pilipino Putol, Pasay City
			Maricaban 3, Pasay City

To facilitate the disposition of the subject proclaimed area to bonafide and qualified residents, MIAA has agreed to convey the said parcels of land under the said PP to the NHA through the execution of three (3) Deeds of Conditional Assignment of Real Property, which were all acknowledged by NHA on June 29, 2018 and by MIAA on July 31, 2018. Following the notarization of the said Deeds, the NHA, through public bidding, hired various Contractors for Titling Works herein described, as follows:

Contractor/s	Scope of Works	TCT No/s.	Lot No/s.	Location
C.G. Garcia Realty and Development Corporation	Individual Titling Works			Sitio San Juan, Parañaque City
				Sitio Sta. Rita, Parañaque City
				Sitio Maligaya, Parañaque City
				Sitio Puyat Compound, Parañaque City
Dimaculangan Land Surveying Services	Segregation Survey and Individual Titling Works			Bo. Pilipino Putol, Pasay City
BAC Surveying and Titling Services	Survey and Individual Titling Works			Maricaban 3, Pasay City

In reply, please be informed that the afore-mentioned Deeds of Conditional Assignment of Real Property executed by and between the MIAA and the NHA over the above-described parcels of land are **not subject** to income tax/capital gains tax/expanded withholding tax, and documentary stamp tax pursuant to Sections 19 and 20 of RA No. 7279, as amended by RA No. 10884 (Balanced Housing Development Program Amendments) dated July 17, 2016 and to value-added tax (VAT) pursuant to Section 109 (1) (P) of the National Internal Revenue Code (Tax Code) of 1997, as amended.

However, with regard to the exemption of taxes that may be incurred by the above-mentioned Contractors on the conduct of Titling Works, the same cannot be granted for lack of legal basis. Section 20 of RA No. 7279, as amended, states that:

*"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;

xxx xxx xxx

(3) Value-added tax for the project contractor concerned;

xxx xxx xxx"
(Emphasis and underscoring supplied)

In relation thereto, Section 3(r) of RA No. 7279, as amended, defines "socialized housing" as follows:

"Sec. 3. Definition of Terms. *– For purposes of this Act:*

xxx xxx xxx

*(r) "Socialized housing" refers to housing programs and projects **covering houses and lots or homelots only** undertaken by the Government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized*

terms on interest payments, and such other benefits in accordance with the provisions of this Act;" (Emphasis and underscoring ours)

In this case, the above-mentioned Contractors have been engaged by the NHA to undertake the individual titling of the above-described parcels of land. It must be noted that a purely land titling works do not fall within the definition of a "socialized housing" under Section 3 (r) of RA No. 7279, as amended. It is apparent that the tax incentive provision, granting exemption from project related income taxes is limited to project contractors on their construction and development of houses and lots or homelots only, with a view to reduce the cost of housing units for the benefit of the underprivileged and homeless.[1] Thus, the service fees to be paid by the NHA to the aforesaid Contractors shall be subject to income tax and consequently, to withholding tax.

Moreover, Section 20 (d) (3) of RA No. 7279, as amended by RA No. 10884, on exemption from VAT for the project contractor concerned, was already repealed by Section 86 (tt) and (uu) of RA No. 10963. Hence, the service fees to be paid by the NHA to the said Contractors shall be subject to VAT and the NHA, before making payment on account of the services to performed by the Contractors concerned, shall deduct and withhold a creditable VAT at the rate of five percent (5%) of the gross payment thereof, pursuant to Section 114 (C) of the Tax Code of 1997, as amended.

It should be remembered that laws and statutes granting tax exemptions are strictly construed against the taxpayer. Exemptions are never presumed and the burden is upon the taxpayer to establish his right to exemption beyond reasonable doubt[2]. In the case of *Mactan Cebu International Airport Authority v. Marcos,*[3] the Supreme Court held:

> "Accordingly, tax statutes must be construed strictly against the government and liberally in favor of the taxpayer. But since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting the exemptions are thus construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. A claim of exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken. Elsewise stated, taxation is the rule, exemption therefrom is the exception."

Please be guided accordingly.

Very truly yours,

Lilia C. Guillermo

LILIA CATRIS GUILLERMO
Commissioner of Internal Revenue

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[1] BIR Ruling Nos. 011-2018 dated January 10, 2018 and 426-2012 dated June 25, 2012.
[2] Dimaampao, Japar B., Tax Principles and Remedies, Second Edition (2005).
[3] G.R. No. 120082, 11 September 1996, 261 SCRA 667.