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

Republic Act No. 7279; Sections 32 (B) (7) (b) and 196 of the National Internal Revenue Code of 1997, as amended
BIR Ruling No. 1100-2018 0803-2019
DEC 17 2019

OFFICE OF THE PROVINCIAL GOVERNOR
Rizal Provincial Government
Antipolo, Rizal

Attention: HON. REBECCA A. YNARES
Governor

Gentlemen:

This refers to your letter dated August 13, 2019, requesting for the issuance of a ruling exempting the Rizal Provincial Government from the payment of taxes and other fees for the transfer of socialized lots of the Pinugay Resettlement Project to its qualified beneficiaries pursuant to Republic Act (RA) No. 7279, otherwise known as the Urban Development and Housing Act of 1992.

Per Resolution No. [illegible] dated October 21, 2002, the Provincial Governor of Rizal is authorized to enter into a contract and sign the necessary documents of conveyance for the sale of socialized lots of the Pinugay Resettlement Project located in Pinugay, Baras, Rizal consisting of 928 lots, more or less, which are part of the 25-hectare land owned by the Rizal Provincial Government embraced in and covered by Transfer Certificate of Title (TCT) No.

In reply, please be informed that Sections 2 and 4 of RA No. 7279, as amended by RA No. 10884 (Balanced Housing Development Program Amendments) dated July 17, 2016, provide as follows:

> "Sec. [illegible] Declaration of State Policy and Program Objectives. — It shall be the policy of the State to undertake, in cooperation with the private sector, a comprehensive and continuing Urban Development and Housing Program, hereinafter referred to as the Program, which shall:
>
> *xxx xxx*
>
> *(f) Improve the capability of local government units in undertaking urban development and housing programs and projects;*

As a political subdivision of the state which acts for the purpose of accomplishing government policies and objectives and extending essential services to the people, the Provincial Government of Rizal is exercising governmental and not proprietary functions when it transfers the socialized lots of the Pinugay Resettlement Project to its qualified beneficiaries.[1] Thus, in line with the foregoing and since it is a declared State policy as laid down in RA No. 7279, as amended, to provide decent and affordable housing to the underprivileged and homeless citizens and to improve the capability of local government units in undertaking urban development and housing programs and projects, the distribution or transfer of the Provincial Government of Rizal of socialized lots to its qualified beneficiaries is exempt from capital gains tax (CGT). The Provincial Government of Rizal, which is tasked to implement the distribution of the socialized lots, shall not be subject to CGT, for it is only performing a mandated governmental function of providing shelter to its qualified beneficiaries.[2]

However, the distribution or transfer of socialized lots to its qualified beneficiaries is subject to the documentary stamp tax (DST) imposed under Section 196 of the National Internal Revenue Code of 1997, as amended, in accordance with Revenue Regulations (RR) No. 11-1997, as amended by RR No. 17-2001. The DST herein imposed shall be based on the actual consideration considering that one of the contracting parties is the Government pursuant to Revenue Memorandum Order (RMO) No. 41-1991 and Section 196 of the National Internal Revenue Code of 1997, as amended.

Moreover, the notarial acknowledgment to the individual deed of conveyance is also subject to the DST pursuant to Section 188 of the National Internal Revenue Code of 1997, 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,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1-LMAT

9a 031382

[1] Peoples' Homesite and Housing Corporation vs. Court of Industrial Relations, 150 SCRA 296, 310 (1987).
[2] BIR Ruling No. 1[illegible]00-1[illegible]8 dated July 24, 2018.