REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7279; RR 11-97, as amended by RR 17-01; RMO 41-91; Sections 32 (B) (7) (b) & 196, of the Tax Code of 1997, as amended
BIR Ruling No. 046-16
#310-2016 6-28-2016

HON. MARLO S. GUILLERMO
Office of the Municipal Mayor
Municipality of Diffun
Province of Quirino

Sir:

This refers to your letter dated January 2, 2012 requesting for tax exemption from donor's tax on its donation over the parcels of land to different beneficiaries of Aurora Resettlement Project.

Documents submitted disclose that the Municipality of Diffun is the registered owner of a parcels of land situated at Brgy. Aurora West, Municipality of Diffun, Quirino Province; that the Municipal Government passed Resolution Nos. 05[1] and 06[2], s-1998; that on 8 October 1998, the Municipality of Diffun entered into a Memorandum of Agreement with the National Housing Authority (NHA) whereby the former sought financial and technical assistance from latter for the socialized housing/resettlement project of the Municipality of Diffun intended to provide housing assistance for urban poor families requiring relocation/resettlement; that on 19 November 2012, the Municipality of Diffun, as represented by the Municipal Mayor, Marlo S. Guillermo, executed three (3) Deeds of Donation over Two Hundred Forty Two (242) titled lots to the beneficiaries[3] of the resettlement project.

In reply, please be informed that the distribution or transfer of the lots to the beneficiaries of resettlement/socialized housing project to benefit poor families qualified for relocation and resettlement in the Municipality of Diffun is exempt from Income Taxes/ Donor's Tax. The Municipality of Diffun, which is tasked to implement the distribution of the housing units, shall not be subject to any tax, for it is only performing a mandated governmental function of providing housing assistance to urban poor families requiring relocation/resettlement. (BIR Ruling No. 046-16 dated January 28, 2016)

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[1] Resolution declaring the municipal lots situated in Aurora West, Diffun, Quirino as site for the Resettlement Project of the Municipality of Diffun, Quirino
[2] Authorizing the Hon. Delfin V. Vaquilar, Jr., Mayor of the Municipality of Diffun, Quirino, to enter into a Memorandum of Agreement with the National Housing Authority regarding the implementation of the Resettlement Project of the Municipality
[3] see Annex for the masterlist of qualified beneficiaries (with remarks/explanation on the discrepancies in the masterlist of beneficiaries and Deed of Donation) consisting of fourteen (14) pages

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An instrumentality of the government which acts for the purpose of accomplishing government policies and objectives and extending essential services to the people performs governmental and not proprietary functions. *(Peoples' Homesite and Housing Corporation vs. Court of Industrial Relations, 150 SCRA 296, 310 (1987)* Thus, in line with the foregoing and since it is a declared State policy as laid down in Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992", to provide decent and affordable housing to the underprivileged and homeless citizens, the Municipality of Diffun, therefore, shall not be subject to any tax in its resettlement project providing housing assistance to urban poor families requiring relocation/resettlement in the Municipality of Diffun, as they are only performing mandated governmental function.

However, the notarial acknowledgment to the individual deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax 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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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JUN 27 2016