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

Republic Act (RA) No. 7279, as amended by RA No. 10884
BIR Ruling No. 1363-2018
CMP-0307-2020 JUN 08 2020

FELIX PILANTE GREGORIO
#27 Ivory Street, BLISS, Cawayan,
New Washington, Aklan

Sir:

This refers to your letter dated January 8, 2020, requesting exemption from the payment of capital gains tax (CGT) on the transfer of real property from the Municipality of New Washington, Aklan in your favor, pursuant to Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

Documents submitted disclosed that the Local Government Unit (LGU) of New Washington is the lawful owner of fifty (50) housing units and lots in the Bagong Lipunan Improvement of Site and Services (BLISS) located at Brgy. Cawayan, New Washington, Aklan, which were acquired in the year 1999 from the Home Insurance Guaranty Corporation during the incumbency of former Mayor Edmund R. Peralta. To effect the sale and transfer of the said housing units and lots to the actual occupants, the Sangguniang Bayan enacted Municipal Ordinance No. 99-14 providing for the "Authorization Scheme Payment for the Acquisition of Bliss Housing Units and Lots."

On September 19, 2019, after you have fully settled your obligations with the LGU of New Washington, the latter executed a Deed of Absolute Sale of a Parcel of Land conveying in your favor a parcel of land with an area of two hundred eighty (280) square meters covered by Tax Declaration No. Hence, this request.

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. 2. 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 xxx*
>
> *(f) Improve the capability of local government units in undertaking urban development and housing programs and projects.*
>
> *xxx xxx xxx*
>
> *Sec. 4. Coverage. — The Program shall cover all lands in urban and urbanizable areas, including existing areas for priority development sites, and in other areas that may be identified by the local government units as suitable for socialized housing."*

CMP-0507-2020
JUN 08 2020

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 LGU of New Washington is exercising governmental and not proprietary functions when it transfers the BLISS housing units and lots 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 transfer by the LGU of New Washington of the real property covered by Tax Declaration No. [redacted] in your favor is exempt from CGT. The LGU of New Washington, which is tasked to implement the distribution of the BLISS housing units and 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 transfer by the LGU of New Washington in your favor 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 the same Code.

Moreover, the notarial acknowledgment to the Deed of Absolute Sale of a Parcel of Land 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

035101

---

[1] Peoples' Homesite and Housing Corporation vs. Court of Industrial Relations, 150 SCRA 296, 310 (1987).
[2] BIR Ruling No. 1100-18 dated July 24, 2018.