REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA 7279
BIR Ruling No. 022-2009
#332-2016 6-29-2016

AZTEK CONSTRUCTION FIRM
Lot 16 Blk. 85, Yen St. North Fairview Park Subd.
North Fairview, Quezon City

Attention: **ENGR. ALAN B. ZENIT**
Contractor

Gentlemen:

This refers to the letter of Arch. Susana V. Nonato, Officer-in-Charge, NHA-SLB dated November 29, 2013, requesting tax exemption on the Survey Works for Nuestra Señora de Salvacion Project located at Brgy. Lugui, Labo, Camarines Norte.

Document disclosed that on September 11, 2013, Survey Contract for Survey Works for Nuestra Señora de Salvacion Project, Brgy. Lugui, Labo, Camarines, Norte was executed by the National Housing Authority (NHA) and Aztek Construction Firm, a duly organized firm registered and existing under the laws of the Republic of the Philippines, whereby the latter agreed to undertake Survey Works including Relocation Survey, Topographic Survey, Subdivision Survey and Lot Titling for a contract price of .

In reply, please be informed that your request for the exemption of Aztek Construction Firm from payment of VAT relative to the "Survey Works for Nuestra Señora de Salvacion Project, Brgy. Lugui, Labo, Camarines, Norte" cannot be granted for lack of legal basis.

Section 20 of R.A. No. 7279, states that:

> *"Sec. 20. Incentives for 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;*
>
> *(2) xxx xxx xxx;*
>
> *(3) Value-added tax for the project contractor concerned;"*
>
> *xxx xxx xxx"*

Section 3(r) of R.A. 7279 defines "socialized housing" as follows:

> *"(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;" (Underscoring supplied)*

the contractor of socialized housing units is exempt from the payment of value-added tax. (BIR Ruling No. 022-09 dated November 26, 2009)

Inasmuch as Aztek Construction Firm is only contracted as surveyor for Relocation, Topographic, Subdivision and Lot Titling and is not the contractor for the development of the housing projects and, considering further that the survey works and services to be undertaken by Aztek Construction Firm is separate from the construction of the socialized housing units. Although certified by the NHA as a socialized housing project, it is nevertheless outside the definition of a "socialized housing" in relation to the tax incentives for the private sector under Section 20 of R.A. 7279, Aztek Construction Firm cannot be considered as a private contractor participating in socialized housing entitled to tax exemption privileges under Section 20 (d) of R.A. 7279. It is apparent that the tax incentive provision, granting exemption from project related taxes and VAT, is limited to project contractors on the 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.

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

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doubt[1]. In the case of *Mactan Cebu International Airport Authority v. Marcos*[2], 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."*

In view of the foregoing, the request for exemption from payment of VAT and project related taxes of the Aztek Construction Firm relative to its participation as contractor in the project—" Southville 7 Housing Project, Brgy. Dayap & Sto. Tomas, Calauan, Laguna ", is hereby denied for lack of legal basis.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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[1] Dimaampao, Japar B., Tax Principles and Remedies, Second Edition (2005)
[2] G.R. No. 120082, 11 September 1996, 261 SCRA 667