REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA No. 7279
BIR Ruling No. 034-15
321-2018
3-6-2018

MOHON TISA RESIDENTS ASSOCIATION HOA, INC.
Motra Mohon I, Brgy. Tisa, Cebu City, Cebu 6000

Attention : FELIX V. GAHOL

Gentlemen:

This refers to your letter dated July 28, 2016, requesting exemption from capital gains tax (CGT), relative to the transfer of title of land from **MOHON TISA RESIDENTS ASSOCIATION HOA, INC. ("MOTRA"** for brevity), in favor of its qualified member-beneficiary pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992".

It is represented that **MOTRA**, with Taxpayer's Identification No. is the registered owner of the parcel of land located at Brgy. Tisa, Cebu City and covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds of Cebu City; that it is a non-stock, non-profit organization duly registered with the Housing and Land Regulatory Board (HLURB) with Registration No. that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); that said project was taken-out/paid on June 28, 1993 in the amount of pesos (₱), involving beneficiaries; that on June 10, 2015, a Deed of Absolute Sale was executed by **MOTRA** in favor of its member-beneficiary, to wit:

Member- Beneficiaries	TCT No.	Description	Lot Area	Address
Felix V. Gahol				Brgy. Tisa, Cebu City

and that Felix V. Gahol, a member-beneficiary, is now in the process of transferring the purchased property to his name.

In reply, please be informed that the transfer by **MOTRA** in favor of the above-named member-beneficiary who has made full payment of his purchased subdivided lot is not subject to either the CGT imposed under Section 27 (D) (5) of the Tax Code of 1997, as amended, or the creditable withholding tax imposed under Revenue Regulations No. 2-98, as amended, considering that the said transfer of property is made without any consideration and effected only as a formality to finally effect the transfer of the said property to its member-beneficiary, Felix V. Gahol, who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its member-beneficiary who actually owns the aforedescribed lot.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent on the part of the Association to donate the said property to said member-beneficiary, considering that it could not donate property the ownership of which already belongs to the member-beneficiary himself. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold shall be granted, assigned, transferred, or otherwise conveyed to a purchaser or purchasers or to any other person or persons designated by such purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchaser is actually the owner thereof. Besides, no consideration is involved in said transaction upon which the tax imposed could be based.

Accordingly, the transfer of title of the subject lot in favor of the above-named beneficiary is not subject to DST under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO 15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale/transaction in this case does not exceed P450,000.00 for house and lot and P180,000.00 for lot only for each qualified beneficiaries. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

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

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