

Republika ng Pilipinas
KAWANIHAN NG RENTAS INTERNAS
Quezon City

March 4, 1993

REVENUE REGULATIONS NO. 9-93

SUBJECT : Republic Act No. 7279 otherwise known as the Urban Development and Housing Act of 1992. providing tax incentives to Government-owned and Controlled Corporations and Local Government Units as well as Private Sector Participating In Socialized Housing and Community Mortgage Program.

TO : All Internal Revenue Officers and Other Concerned

SECTION 1. SCOPE. - Pursuant to Section 245 of the National Internal Revenue Code (NIRC), as amended, in relation to Sections 19 and 20, Article V and Sections 31 d) and 32. Article VIII of Republic Act No. 7279, these regulations are hereby promulgated prescribing the guidelines and procedures for the availment of the tax incentives by government owned and controlled corporations, local government units and private sector participating in socialized housing and Community Mortgage Program.

SECTION 2. DEFINITION OF TERMS. -
For purposes of these Regulations:

- a) Act - refers to the Urban Development and Housing Act of 1992.
- b) Affordable Cost - refers to the most reasonable price of land and shelter based on the needs and financial capability of Program beneficiaries and appropriate financing schemes.
- c) 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.

A socialized housing unit shall not exceed P150,000.00 or such adjusted amount as may be later on

determined by the Housing and Land Use Regulatory Board (HLURB).

- d) Underprivileged and homeless citizens - refers to the beneficiaries of the Act and to individuals or families residing in urban and urbanizable areas whose income or combined household income falls within the poverty threshold as defined by the National Economic and Development Authority (NEDA) and who do not own housing facilities. This shall include those who live in makeshift dwelling units and do not enjoy security of tenure.
- e) Community Mortgage Program (CMP) - Is a mortgage financing program of the National Home Mortgage and Finance Corporation (NHMFC) which assists legally organized associations of underprivileged and homeless citizens to purchase and develop a tract of land under the concept of community ownership. The primary objective of the program is to assist residents of blighted or depressed areas to own lots they occupy, or where they choose to relocate to and eventually improve their neighborhood and homes to the extent of their affordability.
- f) Blighted lands - refer to the areas where the structures are dilapidated, obsolete and unsanitary, tending to depreciate the value of the land and prevent normal development and use of the area.

- g) Areas for priority development -refers to those areas declared as such by existing statutes and pertinent executive issuances.
- h) Idle lands - refer to non-agricultural lands in urban and urbanizable areas on which no improvements, as herein defined, have been made by the owner, as certified by the city, municipal or provincial assessor.
- i) Raw lands - refer to land not devoted principally to the planting of trees, raising of crops, livestock and poultry, dairying, salt making, inland fishing and similar aquacultural activities, and other agricultural activities, and is not classified as mineral, timber, residential, commercial or industrial land.
- j) Improvements - Refer to all types of buildings and residential units, walls, fences, structures or constructions of all kinds of a fixed character or which are adhered to the soil but shall not include trees, plants and growing fruits, and other fixtures that are mere superimpositions on the land, and the value of improvements shall not be less than fifty percent (50%) of the assessed value of the property.
- k) Joint venture - refers to the commitment or agreement by two (2) or more persons to carry out a specific or single business enterprise for their mutual benefit, for which purpose they combine their funds, land resources, facilities and services.
- l) Land assembly or consolidation -refers to the acquisition of lots of varying ownership through purchase or expropriation for the purpose of planned and rational development and socialized housing programs without individual property boundary restrictions.
- m) Land banking " refers to the acquisition of land at values based on existing use in advance of actual need to promote planned development and socialized housing programs.
- n) Land swapping - refers to the process of land acquisition by exchanging land for another piece of land of equal value, or for shares of stock in a government or quasi-government corporation whose book value is of equal value to the land being exchanged, for the purpose of planned and rational development and provision for socialized housing where land values are determined based on land classification, market value and assessed value taken from existing tax declarations: Provided. That more valuable lands owned by private persons may be exchanged with less valuable lands to carry out the objectives of the Act.
- o) On-site development - refers to the process of upgrading and rehabilitation of blighted and slum urban areas with a view of minimizing displacement of dwellers In said areas, and with provisions for basic services as provided for in Section 21 of the Act.
- p) Professional squatters - refer to Individuals or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing. The term shall also apply to persons who have previously been awarded homelots or housing units by the Government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area, and non-bonafide occupants and intruders of lands reserved for socialized housing. The term shall not apply to individuals or groups who simply rent land and housing from professional squatters or squatting syndicates.
- q) Squatting syndicates - refer to groups of persons engaged in the business of squatter housing for profit or gain.
- r) Urban areas - refer to all cities regardless of their population density and to municipalities with a population density of at least five hundred (500) persons per square kilometer.

- s) Urbanizable areas - refers to sites and lands which, considering present characteristics and prevailing conditions, display marked and great potential of becoming urban areas within the period of five (5) years.
- t) Zonal Improvement Program or ZIP -refers to the program of the National Housing Authority of upgrading and improving blighted squatter areas within the cities and municipalities of Metro Manila pursuant to existing statutes and pertinent executive issuances.
- u) Private sector/project contractor -shall refer to persons, natural or juridical, participating in socialized housing and/or community mortgaged program as provided for in the Act; or are engaging in the services of developing sites, slum Improvement or resettlement areas. and/or construction and sale of socialized housing units.

SECTION 3. A. COVERAGE - LAND/ AREAS. - The Urban Development and Housing Program referred to as the PROGRAM shall cover all lands in the urban and urbanizable areas, including existing areas for priority development, zonal improvement sites, slum improvement and resettlement sites and in other areas that may be identified by the local government units as suitable for socialized housing.

B. EXCLUSIONS. - The following lands shall be exempt/excluded from the coverage of the Act:

- a) Those included in the coverage of Republic Act No. 6657, otherwise known as the Comprehensive Agrarian Reform Law;
- b) Those actually used for national defense and security of the State;
- c) Those used, reserved or otherwise set aside for government offices, facilities and other installations. whether owned by the National Government, its agencies and instrumentalities, including government-owned or controlled corporations, or by the local government units: Provided, however,

That the lands herein mentioned, or portions thereof, which have not been used for the purpose for which they have been reserved or set aside for the past ten (10) years from the effectivity of the Act, shall be covered by said Act;

- d) Those used or set aside for parks, reserves for flora and fauna, forests and watersheds, and other areas necessary to maintain ecological balance or environmental protection, as determined and certified to be the proper government agency; and
- e) Those actually and primarily used for religious, charitable, or educational purposes, cultural and historical sites, hospitals and health centers, and cemeteries or memorial parks.

SECTION 4. TAX INCENTIVES. --

A. NATIONAL HOUSING AUTHORITY (NHA) - The NHA being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of all fees and charges of any kind. whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the NHA shall be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of titles.

1. The exemption of the NHA from national taxes shall refer to the following:

- a) Ordinary corporate income tax and creditable expanded withholding tax on the gain realized from the sale, exchange or other disposition of real properties under the socialized housing program as provided In the Act; and
- b) Documentary stamp tax on sales transactions executed, by and in favor of the NHA in connection with socialized housing project.

Provided, however, that In the case of foreclosure sale or real property mortgaged to NHA by qualified beneficiaries of socialized housing,

NHA, as statutory seller shall be liable to the payment of capital gains tax and documentary stamp tax otherwise due from the mortgagor-debtor: Provided further, that if the latter redeems the property within the one-year redemption period, the amount of tax paid by NHA may be collected from the mortgagor-debtor.

2. NHA shall not be exempt from the following:

- a) 20% final withholding tax on interest from Philippine currency bank deposits, yield or any other monetary benefits from deposits substitutes, trust funds and similar arrangements and royalties derived from sources within the Philippines;
- b) Income tax on gains derived from dealings in property and shares of stock and such other income not directly related to socialized housing project; and
- c) As an employer and withholding agent of the Government, it shall deduct and withhold the corresponding income tax from the compensation income of its employees; or if it makes income payment to individuals or corporations subject to the expanded withholding tax provided for in Section 50(b) of the NIRC as amended, and as implemented by Revenue Regulations No. 6-85 as amended.

B. Private Sector Participating in Socialized Housing. -

1. 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 citizens, the private sector shall be exempt from payment of the following national internal revenue taxes:
 - a) Project related corporate or individual income taxes on income directly realized from development and improvement of

socialized housing sites, slum areas, resettlement areas, and/or construction and sale of socialized or low cost housing units to qualified beneficiaries, as determined by the NHA and registered with the Housing and Urban Development Coordinating Council (HUDCC); PROVIDED. That the determination of project related income shall be made in accordance with the guidelines to be promulgated by the Bureau of Internal Revenue.

- b) Capital gains tax on sale of raw lands for use in the socialized housing project as certified by the HLURB;
- c) Value added tax for the project contractor concerned; and
- d) Donor's tax for lands certified by the local government units to have been donated for socialized housing purposes.

C. Participants in Community Mortgage Program (CMP) shall be granted the following privileges or incentives:

1. Government-owned or controlled corporations and local government units, may dispose of their idle lands suitable for socialized housing under the CMP through negotiated sale at prices based on acquisition cost plus financial carrying costs;
2. Properties sold under the CMP shall be exempted from the capital gains tax and expanded withholding tax (for individual landowners), or ordinary corporate income tax and expanded withholding tax if sold by a corporation. However, the documentary stamp tax shall be paid on every sale of property under the Community Mortgage Program based on the actual consideration of sale.

D. Occupants of areas for priority development, zonal improvement program sites and slum improvement and resettlement program sites, shall be entitled to priority in all government projects initiated pursuant to the Act.

They shall be exempt from the payment of documentary stamp tax, registration fees and other fees for the issuance of transfer certificates of titles.

**SECTION 5. REQUIREMENTS/
CONDITIONS FOR AVAILMENT OF TAX
INCENTIVES/EXEMPTIONS.**

A. To qualify for socialized housing "program, a beneficiary -

- a) Must be a Filipino citizen;
- b) Must be an underprivileged and homeless citizen, as defined in Section 3(t) of the Act and Section 3 (d) of these regulations:
- c) Must not own any real property whether in the urban or rural areas;
and
- d) Must not be a professional squatter or a member of squatting syndicates.

B. A developer of proposed subdivision project shall be required to develop an area for socialized housing equivalent to at least twenty (20%) percent of the total subdivision-area or total subdivision project cost at the option of the developer, within the same city or municipality whenever feasible and in accordance with the standards set by the HLURB and other existing laws. The balanced housing development required under Section 18 of the Act may also be complied with/by the developers concerned in any of the following manner:

- a) Development of new settlement;
- b) Slum upgrading or renewal of areas for priority development either through zonal improvement programs or slum improvement and resettlement programs;
- c) Joint venture projects with either the local government units or any of the housing agencies; or
- d) Participation in the community mortgage program.

C. Written application for exemption from capital gains tax on the sale of raw lands used for socialized housing project, shall be filed with the Legislative, Ruling & Research

Division, BIR, National Office Building, Diliman, Quezon City, together with the following documents:

- a) Certified true copy of the Deed of Sale;
- b) Certified true copy of the TCT/s;
- c) Approved socialized housing development plan;
- d) Evidence of payment of documentary stamp tax based on the actual consideration of sale. or the Zonal Value/Fair Market Value of the property sold, whichever is higher;
- e) Certification from the municipal assessor that the area/s being sold are raw lands for use in the socialized housing project; and
- f) Seller Taxpayer Identification No. (TIN) shall be indicated in the application.

D. If raw lands are donated to the government or to the community association for socialized housing project, a copy of the Deed of Donation shall be submitted to the Commissioner of Internal Revenue, together with the application for donor's tax exemption.

E. A Project Contractor whose services are engaged for the development and construction of socialized housing project shall submit to the BIR, Attention: Legislative, Ruling and Research Division, a copy of the Service Contract for purposes of tax exemption. He/it shall apply for VAT exemption for every socialized housing project to be undertaken. He shall only issue Non-VAT invoice on the service fee paid to him/it. Purchases of goods/articles by the project contractor shall however be subject to VAT even if to be used for socialized housing project.

F. Upon application for exemption, a lien on the title of the land shall be annotated by the Register of Deeds having jurisdiction over the property.

G. The socialized housing development plan, shall be registered with the HUDCC which in coordination with the local government units, shall design a system for

the registration of qualified Program beneficiaries in accordance with the framework.

H. The local government units within one (1) year from the effectivity of the Act shall identify and register all beneficiaries within their respective localities.

I. Participants in CMP shall file their application for tax exemption with the BIR. Legislative. Ruling & Research Division together with the following documents:

1. Certified true copy of the Deed of Sale;
2. Certification from the NHA that the said transaction is under CMP and the members of the community association are qualified beneficiaries;
3. Certificate of guaranty by the Home Guaranty Insurance Fund;
4. Copy of the Articles of Incorporation of the association organized as a non-stock/non-profit organization duly registered with the SEC;
5. Certified copies of the TCT and Tax Declaration of the property sold under the CMP; and
6. Location plan showing the lot area occupied and sold to the tenants members of the Association who are qualified beneficiaries of socialized housing, i.e., underprivileged and homeless citizens as defined in these regulations.

An ocular inspection of the property and verification of who are the actual occupants and qualified beneficiaries of the property sold pursuant to the community mortgage program shall be conducted and a report thereon made by the Revenue District Officer (RDO) having jurisdiction over the place where the property is located . The letter of exemption from capital gains tax shall be issued by the Commissioners, which shall be the basis for the issuance by the RDO of the Certificate Authorizing Registration (CAR) of the property in the name of the Community Association.

SECTION 6. BOOKKEEPING AND REPORTORIAL REQUIREMENTS. - All government units/agencies and private sectors, including project contractors participating in the socialized housing project and community mortgaged program under the Act shall keep regular books of accounts and maintain separate and accurate records of their transactions involving development, improvement of sites, slums and resettlement areas, and services in connection with construction and sale of socialized housing units, whether of houses and lots or homelots only, in accordance with the bookkeeping law, rules and regulations. They shall likewise file the usual income tax return together with the duly audited financial statements on or before the 15th day of the fourth month following the end of its taxable year, Provided that separate schedule for the exempt transactions shall be attached to the return which shall be subject to investigation by authorized revenue officers of the BIR. The Project Contractor shall likewise file non-vat returns declaring their gross receipts from services rendered in connection with socialized housing projects in accordance with existing rules and regulations.

SECTION?. REPEALING CLAUSE.-The provisions of existing rules and regulations Inconsistent with these regulations are hereby amended, repealed or revoked accordingly.

SECTION 8. EFFECTIVITY. - These regulations shall take effect fifteen (15) days after publication in the Official Gazette or in a national newspaper of general circulation.

(Sgd.) RAMON R. DEL ROSARIO. JR.
Secretary of Finance

Recommended by :

(Sgd.) EUFRACIO D. SANTOS
Deputy Commissioner
Officer-in-Charge