

[BIR REVENUE REGULATIONS NO. 11-97, July 04, 1997]

REVISED REVENUE REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 7279, OTHERWISE KNOWN AS THE URBAN DEVELOPMENT AND HOUSING ACT OF 1992, PROVIDING TAX INCENTIVES TO GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND LOCAL GOVERNMENT UNITS, AS WELL AS PRIVATE SECTOR PARTICIPATING IN SOCIALIZED HOUSING AND COMMUNITY MORTGAGE PROGRAM, AMENDING FOR THE PURPOSE PERTINENT PROVISIONS OF SECTIONS 2, 4 AND 5 OF REVENUE REGULATIONS NO. 9-93

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 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) **Areas for priority development** — refer to those areas declared as such by existing statutes and pertinent executive issuances.
- (d) **Blighted lands** — refer to those 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.
- (e) **Community Mortgage Program (CMP)** — is a mortgage financing program of the National Home Mortgage 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 areas to own the lots they occupy, or where they choose to relocate to and eventually improve their neighborhood and homes to the extent of their affordability.
- (f) **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, municipality, or provincial assessor.

(g) **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.

(h) **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.

(i) **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.

(j) **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 program.

(k) **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.

(l) **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.

(m) **Private sector/project contractor** — shall refer to persons, natural or juridical participating in socialized housing or Community Mortgage Program as provided for in the Act; or are engaging in the services of the developing sites, slums improvement, or resettlement areas, and/or construction and sale of socialized housing units.

(n) **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.

(o) **Raw lands** — refer to any alienable public or private land that is

undeveloped or unimproved and that is suitable for socialized housing.

(p) **Socialized housing** — refers to housing programs and projects covering houses and lots or homelots only undertaken by the government or other 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 for a house and lot package, subject to periodic adjustment or increase as the Housing and Land Use Regulatory Board (HLURB) may effect from time to time: Provided, that in the case of sale of homelot only, the price thereof shall not exceed forty percent (40%) of the maximum limit prescribed for the house and lot package.

(q) **Squatting syndicates** — refer to groups of persons engaged in the business of squatter housing for profit or gain.

(r) **Underprivileged and homeless citizens** — refer 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 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.

(s) **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.

(t) **Urbanizable areas** — refer 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.

(u) **Zonal Improvement Program (ZIP)** — refers to the program of the National Housing Authority (NHA) of upgrading and improving blighted squatter areas within the cities and municipalities of Metro Manila pursuant to existing statutes and pertinent executive issuances.

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 (GOCC's), or by the Local Government Units (LGUs): 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 last 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 by 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.

The exemptions herein provided shall not apply when the use or purpose of the above-mentioned lands has ceased to exist.

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 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 of 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 deposit 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; and

(c) As another 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 National Internal Revenue Code (NIRC) as amended, and as implemented by Revenue Regulations No. 6-85, as amended.

B. 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 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 the development and/or improvement of socialized housing sites, slum areas, resettlement areas, and/or construction and sale of socialized housing units to qualified beneficiaries as approved by the HLURB or LGU concerned: Provided, that the sale or any disposition of lot-and/or house and lot packages beyond the maximum amount prescribed in these regulations due to corner and irregular lots shall not affect the nature of the project as a socialized housing project in its totality; Provided, further, That the sale of a unit above the maximum amount shall be subject to the corresponding internal revenue taxes.

A buyer of a socialized housing unit shall be required by the developer/owner/seller to execute a sworn statement that he is eligible as a socialized housing beneficiary under the Act.

Exemption from project-related income tax of a contractor/developer/owner or seller of socialized housing shall be issued by the BIR on a per project basis. Separate books of account shall be kept by the contractor/developer/owner or seller of socialized housing units at the maximum selling price of P150,000.00 or such adjusted amount as may later on be determined by the HLURB.

(b) Capital gains tax on sale of raw lands for use in socialized housing project;

(c) Value-added tax for the project contractor/developer/seller or owner of socialized housing;

(d) Donor's tax for lands certified by the proper LGU to have been