

**October 5, 2001**

**REVENUE REGULATIONS NO. 17-2001**

**SUBJECT: Revenue Regulations Implementing the Provisions on Community Mortgage Program (CMP) of Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992"**

**TO : All Internal Revenue Officers And Others Concerned**

---

**SECTION 1. SCOPE.** - Pursuant to Section 244 of the National Internal Revenue Code of 1997 (Tax Code of 1997), in relation to Section 32, Article VIII of Republic Act No. 7279, these regulations are hereby promulgated to: (i) prescribe the revised guidelines and procedure for availing tax incentives by government-owned or -controlled corporations, local government units, and private sector participating in socialized housing and the Community Mortgage Program (CMP); and, (ii) amend for the purpose the relevant provisions of Revenue Regulations No. 9-93, as amended by Revenue Regulations No. 11-97, and of Revenue Memorandum Circular No. 3-2001.

**SECTION 2. DEFINITION OF TERMS.** - As used in these Regulations, the following terms shall have the following meaning:

**Community Mortgage Program (CMP)** - 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.

**Socialized Housing** - refers to housing programs and projects covering houses and lots or homelots only that are 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 Republic Act 7279.

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. In the case of sale of homelots only, the price shall not exceed forty percent (40%) of the maximum limit prescribed for the house and lot package.

**Areas for Priority Development (APD)** - are areas declared as such by existing statutes and pertinent executive issuances.

**SECTION 3. TAX TREATMENT OF SALE OF REAL PROPERTIES UNDER THE COMMUNITY MORTGAGE PROGRAM.** - Properties sold under the CMP shall be exempt from the capital gains tax or ordinary income tax, and consequently from the creditable (expanded) withholding tax, whether sold by an individual, estate or trust, or by a corporation.

The foregoing exemption notwithstanding, as a general rule, the documentary stamp tax shall be paid on every sale of property under the CMP, based on the higher of the actual consideration of sale stated in the document or of the fair market value to be determined by comparing the zonal value as determined by the Bureau of Internal Revenue and the Local Government Assessor's fair market value.

When one of the contracting parties is the government, the documentary stamp shall be based on the actual consideration paid for the real property.

#### **SECTION 4. GENERAL PROCEDURE. -**

- a. The NHMFC shall execute a certification, signed by its President that the subject property qualifies and is actually a CMP Project. Such certification, copy of which is attached as "Annex A", shall be an NHMFC accountable form.
- b. The Revenue District Officer (RDO) concerned shall exempt from the payment of capital gains tax or income tax, including the creditable withholding tax, if any, the sale of real property under the CMP on the basis of the said certification issued by the NHMFC.
- c. The taxpayer shall pay the documentary stamp tax imposed under Section 196 of the Tax Code of 1997.
- d. The RDO shall issue the corresponding Certificate Authorizing Registration and/or Tax Clearance (CAR/TCL) only after the submission of the necessary and requisite documents stated in Section 5 hereof, including proof of payment of the corresponding documentary stamp tax imposed under Section 196 of the Tax Code of 1997, within five (5) days from the date of compliance with the requirements provided in these Regulations.
- e. On or before the fifth (5th) day of the month immediately following the end of each calendar month, a summary report of all certifications made shall be submitted by the NHMFC to the BIR Deputy Commissioner for Operations in the format suggested in "Annex B" hereof.

**SECTION 5. REQUIREMENTS AND CONDITIONS FOR ISSUANCE OF CERTIFICATE AUTHORIZING REGISTRATION (CAR/TCL).** - Pursuant to the Memorandum of Agreement between the NHMFC and the Bureau of Internal Revenue (BIR) executed on October 5, 2001, the certification by the President of the NHMFC (Annex "A") shall be sufficient guarantee of the due diligence exercised by the said agency in processing any CMP application and therefore, shall also be sufficient basis for the BIR, through the concerned RDO, to exempt the transfer or conveyance from the capital gains tax or income tax, and consequently, from the creditable withholding tax, if any. Such certification, however, shall include the following documents as integral parts thereof:

- a. Certified Duplicate Original of the Deed of Sale to the Community Association;
- b. Certified True Copy of the Articles of Incorporation of the Community Association;
- c. Masterlist of Qualified Beneficiaries;
- d. Certified True Copy of the TCT/OCT and Latest Tax Declaration of the Property/ies Sold to the Community Association;
- e. Location Plan of the Lot Sold to the Community Association.

Upon presentation of the above-mentioned Certification with complete attachments, as well as evidence that the documentary stamp tax due on the transaction has been paid, and upon submission of a duly accomplished Capital Gains Tax Return or Withholding Tax Remittance Return using BIR Form No. 1706 or 1606, as the case may be, the RDO, within five days from compliance with the requirements

provided in these Regulations, shall issue the CAR/TCL for presentation to the appropriate Register of Deeds.

**SECTION 6. APPEAL TO THE REGIONAL DIRECTOR.** - In exceptional cases, the taxpayer may appeal to the Regional Director, who shall decide on the issues presented pursuant to his delegated authority under Revenue Memorandum Circular No. 3-2001.

**SECTION 7. BOOKS OF ACCOUNT AND REPORTORIAL REQUIREMENTS.** - All individual or corporate sellers who are engaged in trade or business, as well as government units/agencies, who are participating in the CMP shall keep regular books of accounts and maintain separate and accurate records of their transactions involving the development and/or improvement of the site, and the provision of services in connection with the Project, in accordance with existing bookkeeping laws, rules and regulations.

**SECTION 8. POST-AUDIT AND VERIFICATION.** - Notwithstanding the foregoing, the Bureau of Internal Revenue shall conduct verification and post-audit that the actual occupants of the properties transferred under the CMP are qualified beneficiaries and therefore, the sellers are entitled to exemption from the capital gains tax or income tax imposed under the Tax Code of 1997.

**SECTION 9. REPEALING CLAUSE.** - All existing rules, regulations and other issuances or portions thereof inconsistent with the provisions of these regulations are hereby modified, repealed or revoked accordingly.

Specifically, Section 4.C.2 and Section 5.I of Revenue Regulations No. 9-93 and Section 4.C(b), and Section 5.F and G of Revenue Regulations No. 11-97 are repealed.

**SECTION 10. SEPARABILITY CLAUSE.** - If any part or provision of these Regulations shall be held to be unconstitutional or invalid, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

**SECTION 11. EFFECTIVITY.** - These regulations shall take effect fifteen (15) days after publication in the Official Gazette or newspaper of general circulation, whichever comes first.

(Original Signed)  
**JOSE ISIDRO N. CAMACHO**  
Secretary

Recommending Approval:

(Original Signed)  
**RENÉ G. BAÑEZ**  
Commissioner of Internal Revenue

Annex "A"  
SN \_\_\_\_\_

## **CERTIFICATION**

### **KNOW ALL MEN BY THESE PRESENTS:**

This is to certify that \_\_\_\_\_, with address at \_\_\_\_\_, is a legal association of underprivileged and homeless citizens organized on \_\_\_\_\_ as evidenced by its duly submitted authenticated Articles of Incorporation. Pursuant to Section 36 of Republic Act No. 7279, otherwise known as the "Urban and Development Housing Act of 1992", \_\_\_\_\_(name of association)\_\_\_\_\_ is securing a housing loan under the Community Mortgage Program (CMP), a financing assistance program of the National Home Mortgage Finance Corporation (NHMFC), for the acquisition of the lots that its qualified member-beneficiaries occupy.

This certifies further that the property/ies described under Transfer Certificate(s) of Title No. \_\_\_\_\_, and more particularly described as follows:

*(technical description of the property/ies)*

is/are actually a CMP Project and shall be proportionately distributed to the association's qualified member-beneficiaries who are identified in the Masterlist that is made an integral part hereof.

This certifies finally that the purchase of the above-described property by the \_\_\_\_\_(name of association)\_\_\_\_\_ is a bona fide transaction, and qualifies for the capital gains tax or income tax exemption provided in Section 32(b) of R.A. 7279. The necessary documents are enclosed herewith and made an integral part of this certification.

Done this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
**ANGELICO T. SALUD**  
**President, NHMFC**

encl: Certified Duplicate Original of the Deed of Sale to the Community Association:

Certified True Copy of the Articles of Incorporation of the Community Association  
and Masterlist of Qualified Beneficiaries;

Certified True Copy of the TCT/OCT and Latest Tax Declaration of the Property/ies sold under  
CMP;

Certified True Copy of the Location Plan of the Property/ies Sold to the Community Association.

(NHMFC Letterhead)

**SUMMARY REPORT OF CERTIFICATIONS  
ISSUED BY THE NATIONAL HOME MORTGAGE FINANCE  
CORPORATION TO THE BUREAU OF INTERNAL REVENUE  
PURSUANT TO REVENUE REGULATIONS NO. \_\_\_\_-2001**

**FOR THE MONTH OF \_\_\_\_\_**

<b>CERTIFICATION SERIAL NUMBER</b>	<b>SELLER</b>	<b>BUYER</b>	<b>TCT/OCT Number</b>	<b>AREA (in square meters)</b>	<b>LOCATION</b>	<b>RDO No.</b>	<b>SELLING PRICE</b>

We guarantee that this Office exercised due diligence in the determination of the qualification of the above-stated parties for capital gains tax or income tax exemption under the Community Mortgage Program (CMP), pursuant to Section 32, Article VIII of Republic Act No. 7279.

We certify the foregoing to be a true, correct and complete report of our transactions related to CMP for the month involved.

---

**ANGELICO T. SALUD**  
**President**