



Tax Law  
for  
Business

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## **Tax incentives for housing projects**

THE Constitution provides that the state shall establish, maintain and ensure adequate social services in the field of housing to guarantee the people's enjoyment of a decent standard of living.

In response to this mandate, the government has institutionalized programs to provide adequate housing to all Filipinos with the creation of agencies that are tasked to oversee and implement the national housing program of the country. However, with demand for housing increasing due to overpopulation, such undertakings were not sufficient to uphold the mandate.

Because of this, the government has called on the private sector for a joint undertaking to provide decent housing. As an incentive, the government provided certain tax concessions, one of which is that provided in Republic Act (RA) 7916, or the Omnibus Investments Code, under the Board of Investments (BOI) for socialized housing. Socialized housing refers to housing programs and projects covering houses and lots or home lots placed in the government or private sector's care for underprivileged and homeless citizens.

As an incentive, private-sector firms that will engage in socialized housing projects shall be entitled to an income-tax holiday (ITH) for three years. Subject to Bureau of Internal Revenue (BIR) requirements, the firms shall also be exempt from creditable withholding taxes. In a ruling, the BIR ruled that income payments received by a BOI-registered company engaged in socialized or low-cost housing projects and is enjoying an ITH are exempt from creditable withholding tax. However, the exemption from this tax covers only revenues received from the registered projects. Moreover, in the computation of the ITH, interest income from in-house financing shall not be considered as part of the revenues generated from the registered housing project and, hence, not covered by the ITH incentive.

The BIR also emphasized that the company's entitlement to an ITH for its BOI-registered housing project is not automatic, for it still has to prove its compliance with the provisions of the specific terms of its BOI registration. Some of these terms are:

1. The enterprise shall submit proof of verified compliance with the socialized housing requirement for its housing projects prior to ITH availment and to be completed within the ITH entitlement period;
2. In the granting of incentives, the extent of the project's ITH entitlement shall be based on the project's ability to contribute to the economy's development;
3. The company must have a Housing and Land Use Regulatory Board (HLURB) endorsement that it has faithfully complied with the approved development plan and a "certificate of good housekeeping";
4. File an application with the BOI Incentive Department within one month from the filing of the final Income Tax Return (ITR) with the BIR in order to validate the claim for income-tax exemption;
5. Secure a Certificate of ITH from the BOI Supervision and Monitoring Department prior to filing of the ITR with the BIR. Otherwise, the ITH for that particular taxable year without a Certificate of Registration shall be forfeited;
6. In the event the enterprise fails to maintain the 75:25 debt-to-equity ratio requirement, it shall show proof that the construction of housing units have been completed and delivered to buyers prior to the availment of the ITH. Otherwise, the enterprise shall not be entitled to the ITH and shall be required to refund any capital equipment incentives it availed of;
7. Proof of compliance that at least 20 percent of the total subdivision area has been allocated to socialized housing within one year from the date of registration or prior to the availment of the ITH;
8. The enterprise shall be duly licensed by Philippine Contractors Accreditation Board;
9. The enterprise shall submit a report of actual investment, employment, sales and other information to the BOI.

In addition to the BOI incentive, RA 7279 also grants an exemption to the sale of socialized housing by the National Housing Authority. This tax incentive under RA 7279 is also intended to minimize the cost of housing units for the benefit of the underprivileged. However, it is pointed out that the incentive shall only cover sale of houses and lots or home lots only.

The tax incentives granted to developers of socialized housing encourage private-sector firms to engage in the construction and development of houses for the underprivileged. Obviously, these incentives are provided to uplift the lives of those who cannot afford the houses. Hence, it must never be used as a shelter to evade the payment of taxes.

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