REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

National Office Building
Quezon City

Sections 24 (D) (1), 188, and 196 of the NIRC of 1997, as amended;
BIR Ruling No. OT-0371-2020
OT- 035-2025
FEB 26 2025

Mawis Law Office
Room 223, 2/F COMFOODS Building, Gil Puyat
cor. Chino Roces Avenue, San Antonio, Makati City, 1200

Attention: **Atty. Patricia Anne Q. Felipe**
Associate Attorney I

Gentlemen:

This refers to your letter requesting for confirmation, on behalf of the Atlantic Knitting Mills Corporation (**"Atlantic"**), that the reconveyance of two (2) parcels of land with improvements thereon, situated at 50 San Francisco St., Barangay Karuhatan, Valenzuela City, is not subject to Capital Gains Tax (CGT) and Documentary Stamp Tax (DST), pursuant to a Decision of the Metropolitan Trial Court (MeTC) Branch 82 in the City of Valenzuela.

It is represented that Atlantic is a corporation duly organized and constituted in accordance with Philippine laws and duly registered with the Securities and Exchange Commission with Registration Number 68773 and Tax Identification Number - 00000. Atlantic's principal office address is at 50 San Francisco St., Barangay Karuhatan, Valenzuela City.

Background

1. Sometime in 1976, Victor Tan (**"Mr. Tan"**), then a member of Atlantic's Board of Directors, purchased two (2) parcels of land with improvements thereon located at 50 San Francisco St., Barangay Karuhatan, Valenzuela City for the benefits and use of Atlantic.

2. Mr. Tan purchased the said properties using the funds provided by Atlantic. The purchased properties were registered with the Register of Deeds of Valenzuela City under the name of Mr. Tan as stated in Transfer Certificate of Title (TCT) and TCT No. -).

3. During the entirety of Mr. Tan's tenure as a member of the Board of Directors, he was never in the possession of the said properties nor exercised acts of dominion over the same. In contrast, Atlantic has been in open, continuous, exclusive, and notorious possession of the said properties during the same period. As such, the subject properties were continuously occupied and used by Atlantic in its business operations.

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4. The Owner's Duplicate Copy of the TCTs of the subject properties remained in the possession of Atlantic's founder, Saw Cen. Moreover, Atlantic was up to date on its payment of real property taxes due thereon.

5. Upon the death of Saw Cen, Mr. Felix S. Saw (**"Mr. Saw"**) served as Atlantic's President. During his incumbency, Mr. Saw discovered that the subject properties were registered under the name of Mr. Tan instead of Atlantic. Mr. Tan honestly believed that the TCTs were registered under the name of Atlantic.

6. On February 6, 2020, Mr. Tan executed an *Affidavit of Existence of Trust*, which was thereafter annotated at the back of the aforementioned TCTs on March 12, 2020. In the said Affidavit, Mr. Tan affirmed that the subject properties were acquired on behalf of and by using the funds of Atlantic.

7. Thereafter, Atlantic filed a *Petition for Reconveyance, Cancellation Title, and Issuance of New Title* before MeTC Branch 82 in the City of Valenzuela which was docketed as Civil Case No. 10824.

8. In the said Civil Case, Mr. Tan filed his Answer wherein he categorically admitted that he voluntarily executed the *Affidavit of Existence of Trust* and confirmed the facts stated therein in relation to the acquisition, occupation, and possession of the subject properties. He asserted that he does not claim ownership over the same.

9. On February 8, 2022, the MeTC Branch 82 in the City of Valenzuela rendered a Decision as follows:

> **"WHEREFORE,** premises considered, judgment is hereby rendered as follows:
>
> *(1) Declaring the existence of implied resulting trust between Victor Tan, as trustee, and Atlantic Knitting Mills Corporation, as beneficiary, over the properties covered by TCT No. and TCT*
>
> *(2) Ordering Victor Tan to transfer or reconvey the properties covered by and to Atlantic Knitting Mills Corporation; and*
>
> *(3) Ordering the Register of Deeds of Valenzuela City to cancel and , both under the name of Victor Tan, and in lieu thereof to issue new certificates of title in the name of Atlantic Knitting Mills Corporation.*
>
> **SO ORDERED."**

10. On September 20, 2022, the MeTC Branch 82 in the City of Valenzuela issued a *Certificate of Finality* indicating that no appeal has been made by the concerned parties despite receipt of the aforementioned Decision and hence the decision became **FINAL** and **EXECUTORY.**

11. In accordance with the abovementioned MeTC Decision, Mr. Tan executed a Deed *of Reconveyance* on January 20 2023 wherein the parcels of land, described in TCT No. B-

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and were assigned, transferred, and reconveyed from Mr. Tan to Atlantic.

12. Atlantic seeks exemption from the imposition of CGT and DST as the reconveyance of the subject properties pursuant to the MeTC Decision is without consideration and was done to return the properties to its rightful owner.

Hence, this request.

In reply, please be informed as follows:

Section 24 (D) (1) of the National Internal Revenue Code of 1997, as amended ***("Tax Code")***, imposes a final tax of ***six percent (6%)*** upon the capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines. The said 6% CGT is computed on the basis of the ***gross selling price or current fair market value, whichever is higher.*** Sections 24 (D) (1) reads:

"Section 24. Income Tax Rates. –

XXXX XXXX XXXX

(D) Capital Gains from Sale of Real Property. –

(1) In General. – The provisions of Section 39(B) notwithstanding, ***a final tax of six percent (6%) based on the gross selling price or current fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher,*** is hereby imposed upon capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales, by individuals, including estates and trusts: Provided, That the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or -controlled corporations shall be determined either under Section 24(A) or under this Subsection, at the option of the taxpayer." (Emphasis supplied)

In applying the foregoing, the imposition of CGT is based on the capital gains presumed to have been realized from the sale, exchange, or other disposition of real property. However, in this case, the reconveyance of the subject properties by virtue of the Decision of MeTC Branch 82 in the City of Valenzuela is without consideration, therefore no capital gains is presumed to have been realized. The reconveyance is for the purpose of returning the subject properties to the legal owners based upon the facts presented and the *Affidavit of Existence of Trust*. Hence, the transfer of the said properties from Mr. Tan to Atlantic, pursuant to a Court Decision, is not subject to CGT as imposed under Section 24 (D) (1) of the Tax Code. Consequently, the *Deed of Reconveyance* is also not subject to the DST imposed under Section 196 of the Tax Code. However, the notarial acknowledgement is subject to the Thirty pesos (P30.00) DST in accordance with Section 188 of the same Code.

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The 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,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

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