REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Secs. 91 (B), 91 (C) and 6 (E) of the Tax Code, as amended
BIR Ruling No. 542-19
DT- [illegible]
[illegible]

ARNOLFO V. TEVES
JANICE T. GASTON
Victoria V. Teves' Heirs Representatives
133 Miciano Rd., Taclobo
Dumaguete City

Gentlemen:

This refers to your request on behalf of the estate of Victoria V. Teves ("decedent") and other heirs for reconsideration on the following matters, to wit:

> *"1. Properties in Sibulan, Negros Oriental*
>
> *That the said properties be charged an estate tax based on Actual Land Use (attached Annex A) herewith. The said properties have never been developed to this day. There are no decent roads traversing within the properties for it to have a zonal value of ONE THOUSAND ONE HUNDRED FIFTY PESOS (Php 1,150) per square meter. To get to the property there is only one (1) barangay road, five-six (5-6) meters wide servicing an area of sixty-five (65) hectares.*
>
> *The taxable amount due computed by RDO 79 is based on the BIR zonal value classified as residential. To come up with such zonal value is neither justifiable nor realistic. In addition thereto, the impact of the pandemic has heavily affected us as well as others.*
>
> *Considering the amount involved in the computation, it has become a burden to the family. As much as we would like to fully pay the Estate Tax, the enormity of the amount has hindered us from doing so. It is our fervent request that our estate tax be mitigated accordingly.*
>
> *2. Extension of payment. We would also request for an extension on the settlement of the Estate Tax. This would give the family members ample time to look for resources in settling the estate tax. Under the Tax law, when the commissioner finds that the payment on the due date of the estate tax or part thereof would impose undue hardship upon the estate or any of the heirs, an extension of such tax maybe given. Also, as per record, we have partially paid the Estate Tax in good faith and have not been negligent on the matter.*
>
> *3. Compromise penalty. We would also request for the compromise penalty to be waived."*

Documents submitted reveal that the decedent died on March 13, 2019. Accordingly, the obligation to file the estate tax return and the payment of the appropriate tax falls due one year after the time of the death or on March 12, 2020.

The Revenue District Office No. 79 – Dumaguete City, Negros Oriental ("RDO No. 79") assessed that the decedent's estate tax amounting to ₱ inclusive of interests and compromise penalty less sums which were partially paid for such purpose. In arriving at the said tax due, RDO No. 79 included in the computation of the gross estate the conjugal properties of the decedent in Sibulan, Negros Oriental based on its zonal value of ₱1,150 per square meter.

You now question the assessment made by RDO No. 79 contending that the valuation, insofar as the Sibulan properties is concerned, should be based on the actual land use of the properties. You also seek for waiver of compromise penalty in the said tax due. Lastly, you likewise request for an extension of time to pay the estate tax as the amount of the estate tax due has allegedly caused undue hardship on your family.

In reply, please be informed as follows:

Extension to Pay Estate Tax and
Waiver of Compromise Penalty

Section 91 (B) (C) of the National Internal Revenue Code of 1997 (Tax Code), as amended, provides:

> *"Section. 91. Payment of tax. —*
>
> *xxx xxx xxx*
>
> *(B) Extension of Time. — When the Commissioner finds that the payment on the due date of the estate tax or of any part thereof would impose undue hardship upon the estate or any of the heirs, he may extend the time for payment of such tax or any part thereof not to exceed five (5) years, in case the estate is settled through the courts, or two (2) years in case the estate is settled extrajudicially. In such case, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension, and the running of the Stature of Limitations for assessment as provided in Section 203 of this Code shall be suspended for the period of any such extension.*
>
> *(C) Payment by Installment. – In case the available cash of the estate is insufficient to pay the total estate tax due, payment by installment shall be allowed within two (2) years from the statutory date for its payment without civil penalty and interest.*
>
> *xxx xxx xxx"*

The provisions posit alternative modalities in paying estate taxes, *inter alia*, through payment by installment basis and/or extension of time to pay estate tax. It can be gleaned from the representations that you have paid the estate tax of the decedent through installment basis. By direct provision of the law, you are allowed within two (2) years or until March 13, 2022

to pay the estate tax free from any civil penalty and interest until such date. The expiration of the said period prevents this Office from waiving compromise penalty for want of any legal basis. Thus, it shall be understood that the estate shall be liable for the corresponding interest and compromise penalty that shall have accrued thereon up to the time of payment of the estate tax due on the transmission by the said estate of its properties in favor of the heirs pursuant to Section 249 of the Tax Code, as amended.[1]

Valuation of Properties
For Estate Tax Purposes

In determining the value of the estate tax arising from a property, the power of the Commissioner of Internal Revenue to assess is subject to Section 6 (E) of the Tax Code, as amended, which provides:

> *"SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –*
>
> *xxx xxx xxx*
>
> *(E) Authority of the Commissioner to Prescribe Real Property Values. – The Commissioner is hereby authorized to divide the Philippines into different zones or areas and shall, upon mandatory consultation with competent appraisers both from the private and public sectors, and with prior notice to affected taxpayers, determine the fair market value of real properties located in each zone or area, subject to automatic adjustment once every three (3) years through rules and regulations issued by the Secretary of Finance based on the current Philippine valuation standards: Provided, That no adjustment in zonal valuation shall be valid unless published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two (2) other conspicuous public places therein: Provided, further, That the basis of any valuation, including the records of consultations done, shall be public records open to the inquiry of any taxpayer. For purposes of computing any internal revenue tax, the value of the property shall be, whichever is the higher of:*
>
> *(1) The fair market value as determined by the Commissioner; or*
>
> *(2) The fair market value as shown in the schedule of values of the Provincial and City Assessors.*
>
> *xxx xxx xxx"*

Department of Finance Order (DO) No. 078-18 provides that the zonal values established within the jurisdiction of RDO No. 79, pursuant to Section 6 (E) of the Tax Code, as amended, shall apply for purposes of computing any internal revenue tax due on sale/transfer or any other disposition of real properties, provided that said zonal values is higher than the: (1) fair market value as shown in the schedule of values of the provincial or city assessor; and

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[1] BIR Ruling No. 542-2019 dated September 27, 2019

(2) gross selling price/consideration as shown in the duly notarized document of sale or transfer of real property.

In this case, the classification and valuation of the properties located in Barangay Looc, Sibulan have already been determined and established under DO No. (The properties of the decedent located in Barangay Looc are classified as residential and are valued at ₱1,150.00 per square meter. This was the prevailing rate when the decedent died. Thus, for purposes of assessment of estate tax, the zonal value as residential, based on the classification of the lots as shown per latest tax declaration, shall be used as the basis in computing for the estate tax being the one higher as compared to the fair market value shown in the schedule of values of the local assessor. Actual land use, not being one of the enumerated instances provided in Section 6 (E) of the Tax Code, as amended, cannot therefore be given credence due to lack of legal basis.

This 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
007798

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