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

Section 24 (D) (1) of the Tax Code, as amended.
BIR Ruling No. 119-2019; BIR Ruling No. 216-2015
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BENJAMIN A. LICMOAN
Attorney-In-Fact

Gentlemen:

This refers to your request on behalf of the heirs of Facundo Igot for an exemption from real property tax (RPT) and capital gains tax (CGT) relative to the conveyance of a six hundred one (601) square meter (sq.m.) - parcel of land labeled as Lot no. ; under the name of "Heirs of Facundo Igot/Ygot" located at Barangay Ibo, Lapu-Lapu City ("subject lot").

The subject lot was taken by the National Government, along with other adjacent real properties, on January 28, 1981. It was alleged that the National Government took the properties for the purpose of renting the same to several locators who would invest their money in Lapu-Lapu City specifically within the Philippine Economic Zone Authority (PEZA)[1] jurisdiction.

In 2019, the subject lot was offered for sale to PEZA (subject transaction). In turn, PEZA offered the price of ₱ per square meter or an aggregate amount of ₱ to which you have agreed. You were then ordered by PEZA to submit all the legal documents for the completion and consummation of the transaction. Thereafter, your agent, Mrs. Lolita Mayor ("Mrs. Mayor") was called into the office of PEZA to affix her signature in the Deed of Absolute Sale. It was alleged that before signing the same you clearly saw the statement "Tax Exempt" indicated therein.

From the foregoing, you now seek tax exemption on the proceeds of the said transaction.

In reply, please be informed that Section 24 (D) (1) of the National Internal Revenue Code of 1997 (Tax Code), as amended, states that:

> *"SEC. 24. Income Tax Rates. –*
>
> *xxx xxx xxx*
>
> *(D) Capital Gain from the Sale of Real Property. –*

[1] Formerly known as Export Processing Zone Authority (EPZA)

(1) In General. – The provision 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 disposition 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."

In the case of *Salud vs. CIR*[2], the Court of Tax Appeals had occasion to rule that the Tax Code, as amended, does not define nor qualify the phrase "*other disposition*". Since there is no ambiguity or vagueness in the law, it must be applied without attempted or strained interpretation. It shall be construed in its plain and simple meaning. "*Disposition*" means an act of disposing; transferring to the care or possession of another; the parting with, alienation of, or giving up property.[3]

It is thus clear that the phrase "*other disposition*" under Section 24 (D) (1) of the Tax Code, as amended, includes all kinds of dispositions of real property unless specifically excluded therefrom or subject to another tax treatment pursuant to other provisions of the Tax Code, as amended, or other special tax laws.

The facts, as represented, readily show that you have entered into a voluntary sale with PEZA. Undisputedly, the subject transaction falls within the meaning of Section 24 (D) (1) of the Tax Code, as amended, and profit from the transaction constitutes capital gain. CGT is imposed on the seller as a consequence of the latter's presumed income from the sale or exchange of real property.[4] The absence of an express statutory provision exempting the subject transaction from CGT stimulates the inevitable application of Section 24 (D) (1) of the Tax Code, as amended.

Also, the sale transaction, being a disposition of real property under Section 24 (D) (1) of the Tax Code, as amended, is likewise subject to the documentary stamp tax (DST) imposed in Sections 188 and Section 196 of the same Code.

Insofar as RPT is concerned, the Tax Code, as amended, empowers this Bureau to enforce only internal revenue taxes enumerated in Section 21 thereof, to wit:

"SEC. 21. Sources of Revenue – The following taxes, fees and charges are deemed to be national internal revenue taxes:

(a) Income tax;
(b) Estate and donor's taxes;

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[2] CTA EB Case No. 412, April 30, 2009
[3] Black's Law Dictionary, 6th Edition
[4] Republic v. San Miguel, G.R. No. 211576, February 19, 2020

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(c) Value-added tax;
(d) Other percentage taxes;
(e) Excise taxes;
(f) Documentary stamp taxes; and
(g) such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue."

Since the enumeration does not include RPT, this Bureau is not in the position to either confirm or deny the exemption from RPT as it is not within our jurisdiction.

This Bureau is not unmindful of the peculiarity of the circumstances surrounding your request. Nevertheless, in the absence of pertinent documents, this Bureau is constrained to issue this ruling based on the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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