REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

National Office Building
Quezon City

Secs. 24 (C); 98; 175 of the Tax Code of 1997, as amended; RR No. 13-2004
BIR Ruling No. OT-338-2021; BIR Ruling No. OT-421-2021; BIR Ruling No. OT-467-2021; BIR Ruling No. OT-038-2023
OT-P 054 2025 APR 14 2025

TOYOTA MOTOR PHILIPPINES CORPORATION
Toyota Special Economic Zone
Santa Rosa-Tagaytay Highway
Santa Rosa City, Laguna 4026

Attention: **Mr. Dennis Benhur R. Escuro**
First Vice President
Comptrollership Division

Gentlemen:

This refers to your request for confirmation on the exemption from payment of taxes on the transfer of proprietary share in Manila Polo Club ("MPC") from a former corporate officer to another corporate officer.

Background:

Toyota Motor Philippines Corporation (the "Company") is a domestic corporation engaged in the manufacture, importation and wholesale distribution of motor vehicles in the Philippines.

The Company owns a share in MPC and is recorded as asset in its books as of December 31, 2019. Per MPC's Articles of Incorporation, proprietary membership shall be evidenced by membership certificate and admits only natural persons as proprietary members.

In order to avail of the privileges of the club, the (1) proprietary membership certificate was issued to Mr. Satoru Suzuki (former President of the Company), as evidenced by Proprietary Membership Certificate No. 7021 dated June 31, 2016.

The aforestated membership is now being transferred to the current President of the Company, Mr. Atsuhiro Okamoto. The Company may also transfer the same MPC proprietary membership to its succeeding Presidents or other officers.

We reply, as follows:

The Transfer of the Share from Mr. Satoru Suzuki to Mr. Atsuhiro Okamoto is not subject to Capital Gains Tax (CGT)

A declaration of trust has been defined as an act by which a person acknowledges that the property, title to which he holds, is held by him for the use of another.[1]

In the Declaration of Trust which Mr. Atsuhiro Okamoto executed, he acknowledged that the transfer did not give him any kind of right, claim or interest whatsoever in the MPC share and that he is holding only the legal ownership of the same with the beneficial ownership pertaining to the Company. Here, the trustor is the Company while the trustee is Mr. Atsuhiro Okamoto.

In the case of *Sime Darby Pilipinas, Inc. v. Mendoza*[2], Sime Darby acquired a Class "A" club share in Alabang Country Club ("ACC") in 1987. However, the By-laws of ACC expressly disallow a corporation to acquire and register the club share under its name. Thus, Sime Darby registered the club share in the name of respondent Mendoza, Sime Darby's sales manager at that time. The Supreme Court held that a trust arrangement existed between Sime Darby and Mendoza and while the share was bought by Sime Darby and placed under the name of Mendoza, the latter's title was only limited to the use and enjoyment of the club's facilities and privileges while employed with the company.

In the instant case, the Company purchased the MPC share and gave the legal title thereto to its trustee-appointee, which entitles the trustee-appointee only to the use and enjoyment of the club's facilities since under the Articles of Incorporation and By-laws of MPC, only natural persons may become registered members. Thus, the transfer of the legal title of the MPC share from Mr. Satoru Suzuki (old trustee-appointee) to its new trustee-appointee, Mr. Atsuhiro Okamoto, is not subject to CGT under Section 24(C) of the National Internal Revenue Code (Tax Code) of 1997, as amended, considering that the transfer involves neither monetary consideration nor change in beneficial ownership. *(BIR Ruling No. OT-467-2021 dated December 14, 2021)*

The Transfer is not subject to Documentary Stamp tax (DST)

The transfer is not subject to DST under Section 175 of the Tax Code of 1997, as amended. The rule is that the assignment of shares of stock of a domestic corporation is subject to DST upon execution of the deed transferring ownership or rights thereto, or upon deliver, assignment or indorsement of such shares in favor of another.

Revenue Regulations (RR) No. 13-2004 dated December 23, 2004, implementing the provisions of Republic Act (RA) No. 9243, otherwise known as *An Act Rationalizing the Provisions on the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as amended, and for other Purposes*, qualified the above rule by stating that for a sale or exchange to be taxable, there must be *an actual or constructive transfer of beneficial ownership of the shares of stock from one person to another.* Section 4 of RR No. 13-2004 provides, to wit:

"XXX XXX XXX

> For a sale or exchange to be taxable, there must be an actual or constructive transfer of beneficial ownership of the shares of stock from one person to another. Such transfer may be manifested by the clear exercise of

[1] Resurreccion de Leon, et al. v. Emiliana Molo-Peckson, et al., G.R. No. L-17809, 29 December 1962.
[2] G.R. No. 202247, 19 June 2013.

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attributes of ownership over such stocks by the transferee, or by an actual entry of a change in the name appearing in the certificate of stock or in the Stock and Transfer Book of the issuing corporation or by any entry indicating transfer of beneficial ownership in any form of registry including those of a duly authorized scripless registry, such as those maintained for or by the Philippine Stock Exchange. However, if by the transfer of certificates of stock from a resigned trustee to a newly appointed trustee such certificate of stock remains in the name of the cestui que trust or the resigned trustee so that the new trustee is constituted as mere depository of the stock, **such transfer is not taxable.** Provided, however, that transfer of shares to "nominees" to qualify them to sit in the board or to qualify them to perform any act in relation to the corporation shall not be subject to the DST provided herein only upon proof of a duly executed Nominee Agreement showing the purpose of the transfer; that the transfer is without consideration other than the undertaking of the nominee to only represent the beneficial owner of the stock; and the transfer is in trust. xxx." (Emphasis and underscoring supplied)

In view thereof, the herein transfer cannot be subject to DST as there was no transfer or conveyance to Mr. Atsuhiro Okamoto of the beneficial ownership of or any right, claim or interest over the MPC share or over the assets of the Company. There being no new conveyance to speak of in this case, there is no new exercise of a privilege upon which DST may be imposed.

The Transfer is not subject to Donor's Tax

The essential elements of a valid donation are: (1) the reduction of the patrimony of the donor, (2) the increase in the patrimony of the donee, and (3) the intent to do an act of liberality. *(Heirs of Rosendo Florencio vs. Heirs of Teresa Sevilla De Leon, G.R. No. 149570 dated March 12, 2004)*

Clearly, there is no intention on the part of the Company to donate the MPC share in favor of Mr. Atsuhiro Okamoto. Thus, the transfer of the MPC share from one corporate officer to another shall not be subject to donor's tax under Section 98 of the Tax Code of 1997, as amended.

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

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