REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Sections 58(E), 27(D), of the NIRC of 1997, as amended
BIR Ruling No. 090-11
CT- 090-2021 MAR 10 2021

ROSALIA V. DE LEON
Treasurer of the Philippines
Bureau of the Treasury
Intramuros, Manila 1002

Madam:

This refers to your letter dated September 04, 2019 requesting for tax exemption from paying taxes, fees, and charges relative to the application for Certificate Authorizing Registration (CAR) for certain properties assigned to the Bureau of the Treasury (BTr).

You represented that pursuant to Section 132 (e) of Republic Act (RA) No. 7653, otherwise known as the New Central Bank Act, the Central Bank-Board of Liquidators (CB-BOL) ceased its operation and assigned its undisposed assets to the National Government (NG), through the BTr. These gratuitous assignments are effected through the execution of Deed of Assignment, on an 'as-is-where-is' basis.

Some of the CB-BOL properties assigned to BTr are not yet under the name of the Republic of the Philippines (ROP). As such, the BTr is currently coordinating with the appropriate agencies and Local Government Units (LGUs) to register the titles of the relevant CB-BOL properties under the name of ROP.

Section 58 (E) of the National Internal Revenue Code of 1997 (NIRC), as amended, provides that no registration of any document of transferring real property can be effected by the Registry of Deeds (RD) unless the Commissioner of Internal Revenue (CIR) or his duly authorized representative has certified that such transfer has been reported, and the Capital Gains Tax (CGT) or Creditable Withholding Tax (CWT), if any, has been paid. In addition, the Certificate Authorizing Registration (CAR) issued by BIR is to be submitted to the RD as part of the documentary requirements for the titling of properties.

Currently, BTr is in process of re-titling, under the name of the ROP, the CB-BOL properties that are still titled under Ekson Realty Development & Construction, Inc. located in Brgy. Pansol, Calamba City, Laguna. Thus, this request.

In reply, to exempt the transaction from capital gains tax, the taxpayer (assignor of real property in this case) must show that he is clearly exempt by law to pay such taxes. One claiming the benefit of tax exemption must bring himself substantially within the terms of the statute or

justify his claim by the clearest grant of the organic or state law. Accordingly, in the absence of a clear grant of tax exemption, the capital gains presumed to have been realized from the assignment of the real properties are taxable on the part of the assignor.

Consequently, as there is no showing that the transfer of the real property from Ekson Realty Development & Construction, Inc. to CB-BOL and the transfer from CB-BOL to BTr are exempt from taxes, this Office regrets to inform you that your request for tax exemption from paying taxes, fees, and charges is hereby denied for lack of legal basis.

We also wish to inform you that exemption from the capital gains tax or any other taxes that may be imposed under the NIRC of 1997, as amended, can only be effected by an act of Congress through legislation, as the Bureau of Internal Revenue merely enforces the tax laws and cannot grant tax exemptions without a law providing for it.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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