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

Sec. 204 (B), NIRC
BIR Ruling No. OT-008-20
CT- 097-2021
APR 1

Sps. Nelson D. Bayang and Ester Q. Bayang

Gaya-gaya, San Jose Del Monte, Bulacan

Sir/Madam:

This refers to your request for waiver of the imposition of penalties and interest due to the late payment of Capital Gains Tax (CGT) and Documentary Stamp Tax (DST).

Background

1. On September 23, 2001, Manuel Hidalgo Laiz, married to Lolita Soyangco Laiz ("Sps. Laiz"), executed a Deed of Absolute Sale in favor of Emelinda C. Baltazar, married to Alexander S. Baltazar, ("Sps. Baltazar"), whereby the former sold to the latter two (2) parcels of land, together with the improvements ("Subject Properties"), situated in Barangay Gaya-Gaya, San Jose Del Monte, Bulacan, each containing an area of One Hundred Eighty square meters (180 sq. m.), more or less, respectively, and covered by Transfer Certificates of Title (TCT) Nos. and in the amount of

2. On October 30, 2007 and January 17, 2008, Sps. Baltazar mortgaged the Subject Properties in favor of Fil-Agro Rural Bank, Inc. ("the Bank"), a domestic corporation duly organized and existing under and by virtue of Philippine laws, with principal office and business address at McArthur Hi-way, Poblacion II, Marilao, Bulacan.

3. On December 21, 2012, Sps. Baltazar and the Bank executed a Dacion en Pago whereby the former sold, ceded, transferred and conveyed by way of Dacion en Pago unto the latter the Subject Properties in payment of her loan with the Bank amounting to

4. On May 26, 2014, the Bank executed a Contract to Sell for the sale of the Subject Properties on installments in your favor in the amount of

5. Sps. Baltazar were able to pay the aggregate amount of and (₱) after the execution of the Contract to Sell.

6. On September 25, 2014, the Monetary Board (MB) of the Bangko Sentral ng Pilipinas (BSP) ordered the closure of the Bank pursuant to MB Resolution No. 1486.

7. Sps. Baltazar have fully paid the purchase price.

8. The BIR Revenue District Office (RDO) No. 25B - Sta. Maria, Bulacan, assessed you the amount of Two Hundred Ninety-Two Thousand Pesos (₱292,000.00).

In reply, please be informed that Section 204(B)(1) and (2) of the National Internal Revenue Code of 1997, as amended (Tax Code), provides:

> *"Sec. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — The Commissioner may —*
>
> *xxx xxx xxx*
>
> *(B) Abate or cancel a tax liability, when:*
>
> *(1) The tax or any portion thereof appears to be unjustly or excessively assessed; or*
>
> *(2) The administration and collection costs involved do not justify the collection of the amount due."*

It is noted that you failed to cite the ground by which you invoke the power of the Commissioner to waive the penalties and interest on the late payment of applicable taxes on the aforementioned transfers.

Under Sections 248 and 249, both of the Tax Code, the imposition of the surcharge and interest on delinquency is mandatory. Strong reasons of policy support a strict observance of the rule regarding the payment of tax. The laws imposing penalties for delinquencies are clearly intended to hasten tax payments or punish evasions or neglect of duty in respect thereof. If delays in tax payments are to be condoned for light reasons, the law imposing penalties for delinquencies would be rendered nugatory and the maintenance of the government and its multifarious activities would be as precarious as taxpayers are willing or unwilling to pay their obligations to the state on time. (Jamora vs. Meer, 74 Phil. 22)

In view of the foregoing, this Office hereby regrets to deny your request of waiver of the imposition of penalties and interest for lack of legal basis.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1