June 8, 2021

BIR RULING NO. OT-195-21

Section 85 of the National Internal Revenue Code of 1997, as amended; Presidential Decree No. 1246; BIR Ruling No. 039-1999

Romulo Mabanta Buenaventura
Sayoc & De Los Angeles
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8767 Paseo de Roxas,
Makati City

Attention: *AAA*

BBB

CCC

Gentlemen :

This refers to your request on behalf of your client, HSBC Trust Company (UK) Limited, for confirmation that the estate of the late DDD, a non-resident alien, consisting of foreign currency deposits in the Philippines, is exempt from estate tax.

Background:

As represented, DDD was a British National domiciled in _____ United Kingdom. He died on January 20, 2012. At the time of his death, he had the following foreign currency deposit accounts with the Hong Kong and Shanghai Banking Corporation Limited — Trust Department and Hong Kong and Shanghai Banking Corporation Limited-Cebu Branch, to wit:

Account Number	Account Balance	BSP Exchange Rate [1]	Equivalent in Php

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		PHP43.299	
		PHP67.4122	
		PHP67.4122	
		PHP67.4122	
		PHP43.299	

On July 24, 2012, the High Court of Justice of the District Probate Registry of Manchester, England granted probate of DDD's Will and appointed HSBC Trust Company (UK) Limited as the administrator of his estate.

Acting on the petition for recognition of the grant of probate of the Will for the estate of DDD, the Regional Trial Court (RTC) of Makati recognized the probate of DDD's Will granted by the Higher Court of Justice of the District Probate Registry of Manchester, England. Accordingly, Letters of Administration was issued by the RTC of Makati in favor of EEE, a resident of _____, to act as the administrator of DDD's estate in the Philippines.

In view of the foregoing, you now request for confirmation that the estate of the late DDD, a non-resident alien, consisting of foreign currency deposits in the Philippines, is exempt from estate taxes.

In reply, please be informed that pursuant to Section 85 of the National Internal Revenue Code of 1997, as amended, the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated: Provided, however, That in the case of a non-resident decedent who at the time of his death was not a citizen of the Philippines, only that part of the entire gross estate which is situated in the Philippines shall be included in his taxable estate.

However, Section 1 of Presidential Decree (PD) No. 1246, amending Section 6 of Republic Act (RA) No. 6426, provides that:

> *"Section 1. Section 6 of Republic Act No. 6426, as amended, is hereby amended to read as follows:*
>
> *Sec. 6. Tax Exemptions. — All foreign currency deposits made under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034, including interest and all other income or earnings of such deposits, are hereby exempted from any and all taxes whatsoever irrespective of whether or not these deposits are made by residents or non-residents so long as the deposits are eligible or allowed under aforementioned laws and, in the case of non-residents, irrespective of whether or not they are engaged in trade or business in*

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the Philippines."

Based on the foregoing, foreign currency deposits of a non-resident alien decedent including interest and all other income or earnings of such deposits are exempt from estate, as long as the deposits are eligible or allowed under RA No. 6426, as amended. Thus, the above-mentioned foreign currency deposit accounts of DDD with the Hong Kong and Shanghai Banking Corporation Limited — Trust Department and Hong Kong and Shanghai Banking Corporation Limited-Cebu Branch are exempt from estate tax.

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.

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. BSP Reference Exchange Rate Bulletin, January 24, 2012.

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