January 24, 2020

BIR RULING NO. OT-030-20

Sec. 24 (D), TC; 000-00

AAA

_____

_____

Dear AAA :

This refers to your letter dated January 8, 2019, as indorsed by the Regional Director, Revenue Region No. 7, Quezon City on January 18, 2019, requesting for exemption from the payment of capital gains tax on the transfer of property registered in the name of MB2 BJ2 Enterprise to your name.

Documents submitted show that MB2 BJ2 Enterprise is duly registered with the Department of Trade and Industry under Certificate of Registration No. 01790186 dated July 16, 2012 and with business address at R10 Glenhaven, California Garden Square, Libertad St., Brgy. Highway Hills, Mandaluyong City. It is a single proprietorship owned by you. MB2 BJ2 Enterprise is the registered owner of a parcel of land covered by TCT No. 004-2012008417 of the Registry of Deeds of Quezon City. You intend to transfer the title to said property (parcel of land) from MB2 BJ2 Enterprise to your name without any monetary consideration.

In reply, please be informed that the law merely recognizes the existence of a sole proprietorship as a form of business organization conducted for profit by a single individual, and requires the proprietor or owner thereof to secure licenses and permits, register the business name, and pay taxes to the national government. [1] It does not vest juridical or legal personality upon the sole proprietorship nor empower it to file or defend an action in court. The proprietor is the single owner of an unincorporated company.

The ownership of the land in question, although registered in the name of MB2 BJ2 Enterprise, actually belongs to you being the sole proprietor thereof. As such, there is actually no transfer since the subject property belongs to one and the same person. Accordingly, there is no relevance in securing a Certificate Authorizing Registration (CAR). A mere administrative correction to change the name from MB2 BJ2 Enterprise to your

Copyright 2020 CD Technologies Asia, Inc.

name before the proper Register of Deeds suffices.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

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

Footnotes

1. *Juasing Hardware v. Hon. Mendoza, etc., et al.*, 201 Phil. 369 (1982); and *Mangila v. Court of Appeals*, 435 Phil. 870 (2002).

Copyright 2020 CD Technologies Asia, Inc.