June 13, 2019

BIR RULING NO. 1006-18

Section 99 of the Tax Code of 1997, as amended

AAA

_____

_____

Gentlemen :

This refers to your letters dated November 17, 2010 and February 7, 2011 requesting for a ruling on the applicability of the first P100,000.00 exemption on gifts to a stranger.

Documents submitted disclosed as follows:

1. Orion Printing Pte. Ltd. (Seller), a non-resident Singaporean business entity, not engaged in trade or business in the Philippines, sold its shares of stock from a local company (Waikapu Stream Enterprises, Inc.) to another Singaporean resident, BBB (Buyer).

2. The sale involves 4,998 shares of stock and sold by the Seller to the Buyer at its par value of P_____ per share or for a total price consideration of P_____. The book value of the Waikapu Stream stock however based on its latest audited financial statements is P_____ per share or a total value of P_____.

3. The difference or net gain on the sale in the amount of P_____ is now being assessed for donor's tax.

In reply thereto, please be informed that Section 99 of the Tax Code of 1997, as amended, provides, to wit:

"SEC. 99. Rates of Tax Payable by Donor. —

"(A) In General. — The tax for each calendar year shall be computed on the basis of the total net gifts made during the calendar year in accordance with the following

Copyright 2020 CD Technologies Asia, Inc.

schedule:

"If the net gift is:

"Over	*But Not Over P100,000*	*The Tax Shall be Exempt*	*Plus of the Excess Over*	
P100,000	*200,000*	*0*	*2%*	*P100,000*
200,000	*500,000*	*2,000*	*4%*	*200,000*
500,000	*1,000,000*	*14,000*	*6%*	*500,000*
1,000,000	*3,000,000*	*44,000*	*8%*	*1,000,000*
3,000,000	*5,000,000*	*204,000*	*10%*	*3,000,000*
5,000,000	*10,000,000*	*404,000*	*12%*	*5,000,000*
10,000,000		*1,004,000*	*15%*	*10,000,000*

"(B) Tax Payable by Donor if Donee is a Stranger. — When the donee or beneficiary is a stranger, the tax payable by the donor shall be thirty percent (30%) of the net gifts. For the purpose of this tax, a 'stranger' is a person who is not a:

"(1) Brother, sister (whether by whole or half-blood), spouse, ancestor and lineal descendant; or

"(2) Relative by consanguinity in the collateral line within the fourth degree of relationship.

"(C) Any contribution in cash or in kind to any candidate, political party or coalition of parties for campaign purposes shall be governed by the Election Code, as amended."

Moreover, Revenue Regulations No. 20-2003 provides a definition of net gift for donors tax purposes to wit:

"For purposes of the donor's tax, "NET GIFT" shall mean the net economic benefit from the transfer that accrues to the donee. Accordingly, if a mortgaged property is transferred as a gift, but imposing upon the donee the obligation to pay the mortgage liability, then the net gift is measured by deducting from the fair market value of the property the amount of mortgage assumed."

From the aforequoted provisions of the Tax Code of 1997, as amended, the exemption of first P100,000 applies only to donations to brother, sister (whether by whole or half-blood), spouse, ancestor and lineal descendant or relative by consanguinity in the collateral line within the fourth degree of relationship. Thus when the donee or beneficiary is a stranger, the 30% donor's tax is imposed on the amount of the net gifts without the benefit of the exemption of the first P100,000.

Copyright 2020 CD Technologies Asia, Inc.

Accordingly, the difference between the book value and the selling price of the shares is considered as a gift subject to donor's tax without deducting the first P100,000.00.

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 as null and void.

Very truly yours,

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

Copyright 2020 CD Technologies Asia, Inc.