REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Secs. 24 (D) (1) & 196 of the NIRC, as amended;		#102-2017 3-3-2017

Person to Contact: Chief, Legal and Legislative Division
Tel. Nos. 926-55-36/ 927-09-63

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ANA ALIGADA ANGULUNAN
Dream Homes Subdivision, Brgy. Dela Paz, Pasig City

Mesdames:

This refers to your letter dated November 17, 2016 requesting, in behalf of Abelardo I. Victorino, et al., for exemption from payment of capital gains tax.

Documents disclosed that Abelardo I. Victorino, Ma. Luisa I. Victorino[1], Felixberto I. Victorino, Veronica I. Victornio and Alicia I. Victorino (landowners) are the registered owners of a parcel of land located in Farmers Avenue, Bambang, Pasig City covered by Transfer Certificate of Tile No. [redacted] containing an area of two thousand four hundred twenty square meters (2,420 sq.m.); that the City of Pasig, through its City Council enacted City Resolution No. 191, Series of 2013, entitled *"Resolution Authorizing the Honorable City Mayor Maria Belen A. Eusebio to pay Just Compensation for Lot 3-C-2 (LRC) [redacted] with an area of 2,420 square meters more or less, owned by Abelardo I. Victorino, et al. which was converted into road known as Farmer's Avenue, Barangay Bambang, Pasig City"*; that the BIR Zonal Value of properties at Farmer's Avenue, Brgy Bambang is fixed at [redacted] Pesos per square meter ([redacted]/sq.m.); that on June 19, 2014, the City Appraisal Committee determined the fair and reasonable market value of the property at [redacted] square meter (P[redacted]/sq.m.); that the landowners and the City Government of Pasig agreed that just compensation is at P[redacted] sq.m. or total consideration of [redacted] and the payment of Notarial Fees and the CGT shall be for the account of the landowners while the DST shall be for the account of the City Government of Pasig.

In reply, please be informed that your request for the exemption from payment of CGT is hereby denied for lack of legal basis.

However, for purposes of computation of the tax base of CGT and DST Sections 24 (D) (1) and 196 of the Tax Code of 1997, as amended, which provide that:

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[1] Heirs of Ma. Luisa I. Victorino namely; Abelardo I. Victorino, Felixberto I. Victorino, Veronica I. Victornio and Alicia I. Victorino as evidenced by Deed of Extrajudicial Settlement of Estate of the Late Ma. Luisa I. Victorino dated March 30, 2016, identified as Doc. No. 350, Page No. 71, Book XXXIX, Series of 2013, and estate tax had fully paid pursuant to Certificate Authorizing Registration Nos. [redacted] both dated August 19, 2016

102-2017
3-3-2017

"Section 24. Income Tax Rates.-

(D) Capital Gains from Sale of Real Property. —

(1) In General. — The provisions of Section 39(B) notwithstanding, a final tax of six percent (6%) based on the ***gross selling price or current fair market value*** *as determined in accordance with Section 6(E) of this Code, whichever is higher, is hereby imposed upon capital gains presumed to have been realized from the sale, exchange, or other disposition of real property located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales, by individuals, including estates and trusts: . . . ." (Emphasis supplied)*

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SEC. 196. Stamp tax on Deeds of Sale and Conveyances of Real Property. - On all conveyances, deeds, instruments, or writings, other than grants, patents or original certificates of adjudication issued by the Government, whereby any land, tenement, or other realty sold shall be granted, assigned, transferred or otherwise conveyed to the purchaser, or purchasers, or to any other person or persons designated by such purchaser or purchasers, there shall be collected a documentary stamp tax, at the rates herein below prescribed, based on the consideration contracted to be paid for such realty or on its fair market value determined in accordance with Section 6(E) of this Code, whichever is higher: Provided, That when one of the contracting parties is the Government the tax herein imposed shall be based on the actual consideration.

Accordingly, the tax base of CGT shall be gross selling price or zonal value of the real property as determined in accordance with Section 6(E) of the Tax Code of 1997, as amended, whichever is higher.

With regard to the computation of the DST, Sec. 196 of the Tax Code of 1997, as amended, provides that when one of the contracting parties is the Government, the DST shall be based on the actual consideration thereof.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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