July 10, 2018

BIR RULING NO. 1050-18

Sec. 58 (E), NIRC of 1997, as amended;
RMC No. 28-2015

Regional Trial Court of Lanao Del Norte
12th Judicial Region
Branch 02 — Family Court
City of Iligan

Attention: *Reynaldo B. Longakit*
Sheriff IV

Gentlemen :

This refers to your letter of inquiry dated September 26, 2016, regarding the voluntary dissolution of the conjugal partnership of gains and for the separation of the common properties of AAA and BBB.

It is represented that a Writ of Execution was issued by the Regional Trial Court (RTC) of Lanao Del Norte, 12th Judicial Region, Branch 02, dated August 08, 2016, pursuant to its Decision rendered on May 27, 2016, based on a Compromise Agreement; that in the said decision, seven (7) Transfer Certificates of Title (TCT) recorded with the Register of Deeds of Iligan City and two (2) Tax Declarations (TD) recorded with the City Assessors Office of Iligan City, all registered under the name of AAA were ordered cancelled and in lieu thereof, to issue the corresponding TCTs and TDs under the name of BBB, to wit:

a. TCT No. 32304 (a.f.);

b. TCT No. 32306 (a.f.);

c. TCT No. 32320 (a.f.);

d. TCT No. 43722 (a.f.);

e. TCT No. 32305 (a.f.);

f. TCT No. 32307 (a.f.);

g. TCT No. 32321 (a.f.);

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h. TD No. 14-0024-01679, covering a building located at Villa Isabel Village Subdivision, Palao, Iligan City; and

i. TD No. 14-0001-01972, covering a building located at Aguinaldo corner Echiverri Street, Poblacion, Iligan City.

and that based on the foregoing, you would like to inquire on the following:

1. Whether or not there is a need for a Certificate Authorizing Registration (CAR) to be issued by the Bureau of Internal Revenue (BIR) to allow the transfer and registration of the seven (7) parcels of land and two (2) buildings under the name of BBB;

2. Whether or not the parties are liable to pay capital gains tax (CGT) and documentary stamp tax (DST), before new titles over the parcels of land and tax declarations are issued under the name of BBB, based on the judgment by compromise agreement issued by the Court; and

3. What documents to be presented to the Register of Deeds, Iligan City, with regard to the transfer of the real/personal properties subject of the decision.

In reply, pleased be informed as follows:

As to the first issue, the last paragraph of Section 56 (A) of the National Internal Revenue Code of 1997, as amended, provides that:

> *"SEC. 56. Payment and Assessment of Income Tax for Individuals and Corporations. —*
>
> *(A) Payment of Tax. —*
>
> xxx xxx xxx
>
> *No registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner or his duly authorized representative has certified that such transfer has been reported, and the tax herein imposed, if any, has been paid."*

Also, Revenue Memorandum Circular (RMC) No. 028-15 [Publishing the Full Text of the Joint Memorandum Circular between the Bureau of Internal Revenue (BIR) and Land Registration Authority (LRA)] states that:

> "xxx xxx xxx
>
> *10. No registration of any deed or instrument resulting in the transfer of ownership of real property shall be allowed by the RD unless the Commissioner or his duly authorized representative has issued the corresponding eCAR, which has*

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been properly verified under the LRA-BIR eCAR Verification System Project.

xxx xxx xxx"

Applying the above quoted provisions, it is thus clear that there is a need for CARs to be issued by the Bureau of Internal Revenue (BIR) to allow the transfer and registration of the seven (7) parcels of land and two (2) buildings under the name of BBB.

As to the second issue, in a voluntary dissolution of the conjugal partnership of gains where the former spouses adjudicated to themselves separately the properties which belong to their community property/conjugal partnership as a consequence of the liquidation of the partnership, the parties merely segregated and adjudicated for their own individual and separate ownership the properties which, from the celebration of their marriage, rightfully belong to them. Therefore, in the instant case, since the parties merely appropriated to themselves their respective shares in the community property, such transfer of the titles and tax declarations to BBB is not subject to CGT imposed under Section 24 (D) (1) of the National Internal Revenue Code of 1997, as amended.

Moreover, such transfer of the titles and tax declarations to BBB is not subject to DST imposed under Section 196 of the National Internal Revenue Code of 1997, as amended.

As to the third issue, this Office is without jurisdiction to answer such query. It is therefore advised that such query be addressed to the Registry of Deeds, Iligan City. The CAR, however, shall be presented to the Registry of Deeds, in addition to other documents that may be required by the said office.

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.

Very truly yours,

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

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