September 5, 2018

BIR RULING NO. 1165-18

Sec. 22 (c), RA 3591 & Sec. 27 (D) (5),
TC; 000-00

Philippine Deposit Insurance Corporation
SSS Building
6782 Ayala Avenue corner V.A. Rufino St.
Makati City 1226

Attention: *Adalzon P. Banogon*
Vice President, Loans Management Group

Gentlemen :

This refers to your letter dated October 25, 2016 addressed to Atty. Honorata S. Aguilar, Revenue District Office (RDO) No. 43B, West Pasig City, seeking confirmation, by way of a BIR ruling that **Philippine Deposit Insurance Corporation** (PDIC) is exempt from capital gains tax (CGT) on real properties acquired by PDIC as the highest bidder in the foreclosure sale.

As represented, PDIC extended financial assistance to Planters Development Bank (PDB) by way of purchase of its assets. PDB executed a General Deed of Assignment in favor of PDIC conveying and assigning to PDIC PDB's rights and interest over several loans, together with their corresponding collaterals. One of the accounts purchased was the loan account of Sps. AAA and BBB, which was secured by a real estate mortgage over the following properties:

TCT No.	Location
PT-90992/35492	Brgy. Kalawaan, Pasig City
T-182877	Brgy. Comembo, Makati City
PT-84755	Brgy. Bambang, Pasig City

For non-payment of the loan, PDIC foreclosed the real estate mortgage covered by TCT Nos. 90992/35492 and 84755 on December 23, 2013. The properties were auctioned on February 24, 2014 wherein PDIC was declared the winning bidder. A Sheriff Certificate of Sale was issued to PDIC which was registered on September 4, 2015.

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In reply, please be informed that **Section 22 (c)** [1] of the PDIC Charter or **Republic Act (RA) No. 3591**, as amended, provides:

> *"It is hereby declared to be the policy of the State that the Deposit Insurance Fund of the Corporation shall be preserved and maintained at all times. x x x;* ***Provided, That on the 6th year and thereafter, the Corporation shall be exempt from income tax, final withholding tax, value-added tax on assessments collected from member banks, and local taxes.*** *"* (Emphasis supplied)

In connection therewith, **Section 7, Revenue Regulations No. 6-2010** states:

> Section 7. Tax Exemption Status Starting June 1, 2014. —
>
> Starting June 1, 2014, PDIC shall be exempt from income tax, **final withholding tax on income**, value-added tax on assessments collected from member banks. Thus, income payments to PDIC shall no longer be subject to the withholding tax system pursuant to Section 2.57.5 (B) of Revenue Regulations No. 2-98, as amended, x x x"

Based on the foregoing provision, it can be inferred that PDIC is exempt from withholding tax on income, and consequently, from creditable withholding tax. However, such exemption is limited to assessments collected from member banks only.

In the instant case, when PDB executed a General Deed of Assignment in favor of PDIC conveying and assigning to PDIC PDB's rights and interest over several loans, together with their corresponding collaterals, PDIC as assignee became the only party entitled to collect the indebtedness thereon. As a result of the General Deed of Assignment, PDIC acquired all rights of the assignor PBD thus, putting the assignee PDIC in the place of the assignor. Being the new creditor, PDIC may demand payment of the principal obligation from Sps. AAA and BBB since it is now the owner of the promissory note who has the legal right to collect the debt. As the party who has the promissory note secured by the mortgage, PDIC is the true owner of the mortgage debt and therefore has the legal right to foreclose. This is because the mortgage credit is a real right, which follows the property wherever it goes, even if its ownership changes.

IN VIEW OF THE FOREGOING, this Office agrees with the position taken by RDO No. 43B, West Pasig City that since the transaction is not considered a collection from member banks within the tax exemption as provided to PDIC by Section 22 (c) of RA 3591, as amended, PDIC is subject to CGT based on whichever is higher of the bid price, or fair market value or zonal value within thirty (30) days from the expiration of the one (1)-year statutory redemption period from the time of registration of the Certificate of Sale pursuant to Revenue Memorandum Circular 55-2011 and RR 9-2012.

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.

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Very truly yours,

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

Footnotes

1. Renumbered from Section 17 (c) by R.A. 10846, 11 June 2016; as added by R.A. 9576, 01 June 2009.

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