REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Bureau of Internal Revenue Ruling

RMO 9-2014; Revenue Bulletin 1-2003 as amended by Revenue Bulletin 2-2003; Art. 749 of the Civil Code; Section 19, Rule 132 of the Rules of Court	1167-2018	

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

Date: SEP 06 2018

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Gentlemen:

This refers to your letter dated June 12, 2017, requesting for tax exemption from the payment of donor's tax on the donation of a parcel of land covered by Transfer Certificate of Title No. M-26145 in favor of The Roman Catholic Bishop of Kalookan. Attached to the request is a copy of the undated Deed of Donation which is not notarized and the Amended Articles of Incorporation of The Roman Catholic Bishop of Kalookan.

In reply, please be informed that Revenue Memorandum Order (RMO) No. 9-2014 was issued to serve as a guideline in the processing of request for rulings with the Law and Legislative Division. Tax Rulings are official positions of the Bureau which are based on particular facts and circumstances presented and are interpretations of the law at a specific point in time.

Under the same RMO, the Bureau is prevented from issuing an opinion on a request which falls on "no-ruling areas" provided in Revenue Bulletin 1-2003, as amended by Revenue Bulletin No. 2-2003. Section 2 (t) of Revenue Bulletin 01-03 provides that request for rulings on issue/s or transactions based on hypothetical situations are considered as ""No-Ruling Areas". Section 3 of RMO 9-2014 provides that:

> *" "Hypothetical Questions" also known as "what if" questions, are queries involving theoretical, speculative, conjectured, notional, suppositional, supposed, or assumed entities or transactions. A ruling will not be issued on alternative plans of proposed transactions or on supposed situations."*

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Donation of real property is governed by Article 749 of the Civil Code which provides:

> *Art. 749. In order that the donation of an immovable may be valid, it must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy.*
>
> *The acceptance may be made in the same deed of donation or in a separate public document, but it shall not take effect unless it is done during the lifetime of the donor.*
>
> *If the acceptance is made in a separate instrument, the donor shall be notified thereof in an authentic form, and this step shall be noted in both instruments.*

From the aforesaid provision, there are three requisites for the validity of a simple donation of a real property, to wit: (1) it must be made in a public instrument; (2) it must be accepted, which acceptance may be made either in the same Deed of Donation or in a separate public instrument; and (3) if the acceptance is made in a separate instrument, the donor must be notified in an authentic form, and the same must be noted in both instruments. Section 19, Rule 132 of the Rules of Court states that documents acknowledged before a notary public except last wills and testaments are considered as public documents. Clearly, to be classified as a public instrument, the document must be acknowledged before a notary public.

The undated Deed of Donation which was submitted was not notarized, as such, the same is not valid and it is as if there is no Donation so to speak since the law requires that for a donation to be valid, the same must be in a public document and hence, must be notarized. There being no valid Deed of Donation, the same is treated as a hypothetical question which is bereft of factual bases.

In view thereof, this Office cannot yet issue a determinative ruling on the above matter considering that the issue is based on hypothetical situation, which is considered as a "No-Ruling Area".

Be that as it may, we would be glad to assist you should you request for a ruling after the Deed of Donation has been notarized, and the proper supporting documents have been submitted.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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