REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 24(D)(1) of the Tax Code of 1997, as amended
BIR Ruling No. 216-2015
n 122-2018
2-2-2018

Ms. ROSARIO PAZ C. LAURIO
No. 8 Oregon Street, California Village
Barangay San Bartolome
Novaliches, Quezon City

Madam:

This refers to your undated letter, filed in behalf of Mr. Benito Y. Riguindin, Mr. Benjamin Y. Reguindin and Ms. Rosalinda F. Riguindin, requesting for a tax exemption ruling with respect to exchange of property ownership made by the above-enumerated taxpayers under "Deed of Exchange" executed on April 6, 2017.

It is represented that Mr. Benito Y. Riguindin and Mr. Benjamin Y. Reguindin are the owners of a parcel of land described as Lot 9-A of subdn. Plan (LRA) with Transfer Certificate Title No. and Tax Declaration No. while Ms. Rosalinda F. Riguindin is the owner of another parcel of land described as Lot 9-B of subdn. Plan (LRA) with Transfer Certificate Title No. and Tax Declaration No. . Both parcels of land have an area of ninety-five (95) square meters.

On April 6, 2017, Mr. Benito Y. Riguindin, Mr. Benjamin Y. Reguindin and Ms. Rosalinda F. Riguindin have executed a "Deed of Exchange" for the purpose of exchanging ownership of the said properties. The Deed of Exchange contained provisions as follows:

> *"Wherefore, for and in consideration of the above premises, BENITO Y. RIGUINDIN and BENJAMIN Y. REGUINDIN, by these presents, transfers and conveys, by way of exchange, ownership over LOT 9-B', with an additional cash consideration of*
> *Pesos, plus the commitment to pay the costs of the transfer to which ROSALINDA F. RIGUINDIN, likewise by these presents, transfers and conveys, by way of exchange the ownership over LOT 9-B to BENITO Y. RIGUINDIN and BENJAMIN Y. REGUINDIN of which BENITO Y. RIGUINDIN and BENJAMIN Y. REGUINDIN acknowledges receipt thereof."*

Relative thereto, you now request for the issuance of a ruling or legal opinion for the tax exemption of the exchange of property since there is not much consideration indicated in the Deed of Exchange. In support of your request, you submitted/attached the following documents:

1. Original copy of Deed of Exchange executed on April 6, 2017
2. Tax Declaration (TD) No.
3. Tax Declaration (TD) No.
4. Transfer Certificate of Title (TCT) No.
5. Transfer Certificate of Title (TCT) No.

In reply, Section 24 (D) of the Tax Code of 1997, as amended, provides, viz.:

> *"Section 24 (D). Capital Gains from Sale of Real Property. — (1) In General. — The provision of Section 39 (B) notwithstanding, a final tax of 6% based on the gross selling price or current market value as determined in accordance with Section 6 (E) of this Code, whichever is higher, is hereby imposed upon the capital gains presumed to have been realized from the sale, exchange and other dispositions 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: . . ."*

In the case of *Salud vs. CIR, CTA EB Case No. 412* dated April 30, 2009, the Court of Tax Appeals had occasion to rule that the 1997 Tax Code, as amended, does not define nor qualify the phrase "**other disposition**". It is clear, plain and therefore must be applied without attempted or strained interpretation. It shall be construed in its plain and simple meaning. "Disposition" means an act of disposing; transferring to the care or possession of another; the parting with, alienation of, or giving up property (*Black's Law Dictionary, 6th Edition*).

Applying the above ruling of the Court, it is therefore clear that the phrase "other disposition" under Section 24(D)(1) of the 1997 Tax Code includes within its purview all kinds of dispositions of real property unless specifically excluded therefrom or subject to another tax treatment pursuant to other provisions of the 1997 Tax Code or other special tax laws.

Foregoing considered, in the absence of an express statutory provision exempting from tax the herein exchange of properties, said transaction is subject to CGT under Section 24(D)(1) of the 1997 Tax Code, as amended. (*BIR Ruling No. 216-2015 dated June 19, 2015*)

The conveyance, being a disposition of real property under Section 24(D)(1) of the 1997 Tax Code, as amended, is likewise subject to the documentary stamp taxes imposed in Section 188 and Section 196 of the same Code. (*BIR Ruling No. 216-2015 dated June 19, 2015*)

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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cc: Regional Director
Revenue Region No. 7, Quezon City

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