February 28, 2019

BIR RULING NO. 199-19

Section 24 (D) (1), NIRC

Word of Life Philippines, Inc.
Barra, Opol, Misamis Oriental

Attention: *AAA*

Gentlemen :

This refers to your letter 23 March 2012 duly indorsed by Revenue Region No. 16-Cagayan de Oro City, requesting for the issuance of a certificate of exemption from payments of taxes relative to transfer of ownership of a lot pursuant to an Affidavit of Waiver/Quitclaim executed by **L.S. Properties, Inc. (LSPI)** in favor of **Word of Life Philippines, Inc. (WLPI)**.

As represented, WLPI is a non-stock, non-profit religious organization registered with the Securities and Exchange Commission (SEC) under SEC Reg. No. A3095 0000877 dated January 31, 1995; that the said corporation is the absolute owner of a certain parcel of land located at Igpit, Opol, Misamis Oriental with an area of 8,226 square meters, more or less, covered with Tax Declaration No. 0815000401323; that the said property was inadvertently included in the title of LSPI, owner of the adjacent land, when the latter had their property titled in 2001; that on September 21, 2011, the Registry of Deeds of Misamis Oriental issued Transfer Certificate of Title (TCT) No. 136-2012000171 to LSPI including the subject parcel of land of WLPI; that when WLPI informed LSPI regarding its claim of possession and ownership over the 8,226 square meter parcel of land, LSPI acknowledged it; and that on March 22, 2012, an Affidavit of Waiver/Quitclaim was executed by LSPI transferring back the said parcel of land to WLPI.

In reply, please be informed that Section 24 (D) (1) of the NIRC of 1997, as amended, provides that:

"SEC 24. Income Tax Rates. *— x x x*

(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*

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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: Provided, That the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations shall be determined either under Section 24 (A) or under this Subsection, at the option of the taxpayer."* (Emphasis supplied)

The phrase "other disposition" includes within its purview all kinds of dispositions of real property under Section 24 (D) (1) of the NIRC of 1997, as amended, unless specifically excluded therefrom or subject to another tax treatment pursuant to different provisions of the NIRC of 1997, as amended. "Disposition" means an act of disposing; transferring to the care or possession of another; the parting with, alienation of, or giving up property. [1]

An Affidavit of Waiver/Quitclaim that was executed by LSPI has the effect of transferring the title of the property in favor of WLPI. LSPI, in, effect, alienated the property in favor of WLPI. The alienation of property thru the execution of Affidavit of Waiver/Quitclaim is embraced in the "other disposition" contemplated by Section 24 (D) (1) of the NIRC of 1997, as amended.

It is a well-settled rule that "[*W*]here the language of the law is clear and the intent of the legislature is equally plain, there is no room for interpretation and construction of the statute." [2]

It is therefore clear that the word "other disposition" must be applied without attempted or strained interpretation. It shall be construed and applied in its plain and simple meaning.

Taxation is the rule and exemption is the exception. Tax exemption, when granted, must be expressed in clear language that leaves no doubt of the intention to grant such exemption.

Based on the foregoing, your request for the issuance of a certificate of exemption from payments of taxes is hereby denied for lack of factual and legal basis.

Very truly yours,

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

Footnotes

1. Black's Law Dictionary, 6th Edition.
2. *United Christian Missionary Society, et al. vs. Social Security Commission and SSS.*

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