December 7, 2016

BIR RULING NO. 423-16

Sections 24 (D) (1) & 196 of the Tax Code of 1997, as amended; BIR Ruling No. 521-2012

AAA

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Madam :

This refers to your letter requesting, on behalf of BBB, exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the reconveyance of a real property based on a compromise agreement duly approved by a court.

Documents submitted show that the Municipal Trial Court of Santa Cruz, Laguna rendered its decision on the civil aspect of Criminal Case No. 34046 (For Falsification of Public Document) entitled *"People of the Philippines vs. CCC and DDD,"* approving the Compromise Agreement entered into by and between BBB and Spouses CCC and DDD. In the aforesaid Compromise Agreement, Spouses CCC and DDD renounced physical and legal possession and ownership of, and agreed to reconvey Lot No. 4411 located in Brgy. San Diego, Luisiana, Laguna, covered by Transfer Certificate of Title (TCT) No. T-239654, in favor of BBB. Pursuant to said Agreement, Spouses CCC and DDD executed on July 7, 2015 a Deed of Reconveyance of Property covering the subject lot in favor of BBB, represented by her Attorney-in-Fact, AAA.

In reply, we regret to inform you that your request for tax exemption cannot be granted for lack of legal basis.

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*

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retro sales and other forms of conditional sales, by individuals, including estates and trusts: . . ."

While the reconveyance of the subject lot was made in accordance with the decision of the Municipal Trial Court of Santa Cruz, Laguna, the transfer of the said property in favor of BBB is nevertheless covered by the clause "other disposition of real property" under Section 24 (D) (1) of the Tax Code of 1997, as amended. The phrase "other disposition" in said provision includes within its purview all kinds of dispositions of real property unless specifically excluded therefrom or subject to another tax treatment pursuant to different provisions of the 1997 Tax Code, as amended. In the absence of an express statutory provision exempting from tax the reconveyance of a real property based on a compromise agreement approved by a court, said reconveyance is taxable under Section 24 (D) (1) of the 1997 Tax Code, as amended. *(BIR Ruling No. 521-2012 dated August 23, 2012)*

Moreover, the reconveyance of the subject real property is subject to DST under Section 196 of the 1997 Tax Code, as amended.

Please be guided accordingly.

Very truly yours,

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

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