REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

**Quezon City**

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|---|
| Sec. 40(C)(2)&(6)(b); RR 18-01 |
| BIR Ruling No. 214-12<br>BIR Ruling No. 100-17<br>BIR Ruling No. 075-18 |
| S40 - 0427 - 2020<br>JUL 30 2020 |

**DeGUZMAN CELIS & DIONISIO LAW OFFICES**
Suite C, 15th Floor, Strata 2000 Building
F. Ortigas Jr. Road, Ortigas Center
Pasig City

Attention: **ATTYS. MARIANO L. CELIS II**
**AMALIA E. DIONISIO**
and
**MARJORIE F. MONCES**

Gentlemen:

This refers to your letter dated January 30, 2018 requesting on behalf of your client, Nutri-Asia, Inc. [doing business under the name and style of UFC Philippines] (hereinafter referred to as "NAI"), for confirmation of your opinion that the merger between NAI and Southeast Asia Food, Inc. ("SAFI") for brevity) is a tax-free merger in accordance with Section 40(C)(2) and 6(b) of the National Internal Revenue Code (NIRC) of 1997, as amended.

**Background**

1. NAI, with Tax Identification No. (TIN) , is a domestic corporation duly registered with Securities and Exchange Commission (SEC) with principal office address at JY Campos Centre, 9th Avenue cor. 30th Street, Bonifacio Global City, Taguig City. At present, NAI has authorized capital stock of (P ), divided into ( ) common shares with a par value of (P ) each and ( ) preferred shares with a par value of (P ) each share. The total capital stock issued and outstanding amounts to (P ) inclusive of P additional paid-in capital and P treasury shares.

2. SAFI, with TIN , was likewise a duly registered domestic corporation prior to the subject merger and had its principal office at 12/F Centerpoint Building, Julia Vargas Ave. cor. Garnet Road, Ortigas Center, Pasig City. It had an authorized capital stock of (P ) divided into ( ) shares with a par value of (P ) per

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share. The total capital stock issued and outstanding amounts to [redacted] (P [redacted]), inclusive of treasury shares worth [redacted] (P [redacted]). [redacted] of the said capital stock, equivalent to [redacted] shares is owned by NAI.

3. In April 2011, NAI and SAFI entered into a Plan and Agreement of Merger, with NAI as the surviving corporation, wherein the effective date of the merger is July 1, 2011.

4. The stockholders of the said corporations approved such merger, for the following business purposes:

   a. The integration of the administrative facilities of the constituent corporations will result in economies of scale and efficiency of operations;
   b. The consolidation of the assets of the constituent corporations will allow the procurement of financing and credit facilities under more favorable terms; and
   c. The merger will make possible the more productive use of the properties of the constituent corporations.

5. At the time of the merger, NAI had an authorized capital stock of [redacted] Pesos (P [redacted]), divided into [redacted] Shares ([redacted]) with a par value of [redacted] (P [redacted]) each. The total capital stock issued and outstanding amounted to [redacted] Pesos (P [redacted]).

6. To implement the issuance of new shares in exchange for the shares of SAFI, NAI simultaneously increased its authorized capital stock from P [redacted] to P [redacted]

7. On May 27, 2011, SEC approved the Plan and Agreement of Merger and the Articles of Merger of the constituent corporations, as well as the increase in NAI's authorized capital stock.

8. In view thereof, NAI requested for a confirmation of the tax-free nature of the said merger with the Bureau of Internal Revenue's Law and Legislative Division in a letter dated June 1, 2011.

9. Thereafter, in a letter dated March 20, 2013, the BIR's Law and Legislative Division notified NAI that said request for confirmatory ruling has been archived for failure of the latter to comply with the submission of required documents to process the application.

10. On May 23, 2013, an Amended Plan and Agreement of Merger was approved by the respective members of the Board of Directors and stockholders of NAI and SAFI, in order to reflect the true intention of the parties on the amount and number of shares to be distributed to the stockholders of SAFI.

11. On April 2, 2014, the SEC issued an Order approving the Amended Plan and Agreement of Merger between NAI and SAFI.

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12. Under the said approved Amended Plan and Agreement of Merger, based on the audited financial statement of SAFI as of December 31, 2010, SAFI shall exchange all its assets, net of liabilities and obligations for such number of common shares of the Surviving Corporation (NAI) at the exchange ratio of 10 shares of NAI at a par value of P per share for every share worth P par value of the Absorbed Corporation (SAFI).

13. Under the said Amended Plan and Agreement of Merger, the stockholders of the constituent corporations resolved to issue a total of shares in favor of NAI, in exchange for its shares in SAFI, thereby amending the total number of issued shares to all SAFI stockholders from common shares to common shares at a par value of P each share. Since the said shares shall be issued by NAI to itself, these shares shall be held in treasury.

14. It is proper and desirable that the corresponding number of shares for NAI's ownership in the capital stock of SAFI or shares should be issued, thereby, a total of shares shall be issued to the stockholders of SAFI by virtue of the merger.

Based on the foregoing representations, you now request confirmation of your opinion that -

1. The described merger of SAFI into NAI is a tax-free merger under Section 40(C)(2) and (6)(b) of the NIRC, such that no gain or loss shall be recognized for income tax purposes;
2. The transfer of assets by SAFI to NAI pursuant to the merger is not subject to value-added tax (VAT) and any unused input tax of SAFI as of the effective date of the merger is absorbed by NAI, as the surviving corporation;
3. The transfer of assets of SAFI to NAI is likewise not subject to donor's tax for lack of donative intent on the part of SAFI;
4. The transfer of real properties to NAI is not subject to documentary stamp tax (DST) under Section 199 (m) of the NIRC, as amended by Republic Act (RA) No. 9243;
5. Any excess creditable withholding tax (CWT) of SAFI, as the absorbed corporation in a statutory merger, is transferred to and vested in NAI, as the surviving corporation, and such excess CWT may be utilized by the latter; and
6. The original issuance of NAI's shares to the stockholders of SAFI is subject to DST at the rate of (P ) on each ( ), or fractional part thereof.

In reply thereto, please be informed, as follows:

1. The foregoing merger of SAFI and NAI is a merger within the contemplation of Section 40 (C) (2) (a) in relation to 40 (C) (6) (b) of the Tax Code of 1997, as amended, because NAI shall acquire/assume all the assets and liabilities of SAFI and the same will result in economies of scale and efficiency of operations of the merging corporations, allow the procurement of financing and credit facilities under more favorable terms, and make possible the more productive use of the properties of the constituent corporations, albeit, to the best interest of their respective stockholders. Hence, the merger of SAFI

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and NAI is being undertaken for a *bona fide* business purpose and not for the purpose of escaping the burden of taxation.

The merger of SAFI and NAI qualifies for non-recognition of gain or loss for income tax purposes in accordance with Section 40(C)(2) of the Tax Code of 1997, as amended, that no gain or loss shall be recognized by SAFI, as the transferor of all assets and liabilities, to NAI pursuant to the Plan of Merger.

Accordingly, no gain or loss shall be recognized by NAI, as the transferee, on its receipt of the assets and liabilities of SAFI pursuant to and as a consequence of the merger.

On the other hand, the bases of the shares of stocks to be received by the shareholders of SAFI upon the exchange shall be the same as the bases of the properties, stocks or securities exchanged, decreased by (1) the money received, and (2) the fair market value of the other property/ies received and increased by (a) the amount treated as dividend of the shareholders and (b) the amount of any gain that was recognized in the exchange. (*Sec. 40 (C) (5) (a) of the Tax Code of 1997, as amended*)

The basis of the properties transferred in the hands of the transferee (NAI) listed in Annex "A" hereof, shall be the same as it would be in the hands of the transferor (SAFI) increased by the amount of the gain, if any, recognized to the transferor (SAFI) on the transfer. (*Sec. 40 (C) (5) (b), supra*)

Finally, if the amount of the liabilities assumed plus the amount of the liabilities to which the property is subject exceed the total of the adjusted basis of the properties transferred pursuant to such exchange, then such excess shall be considered as a gain, on the part of the transferor, from the sale or exchange of a capital asset or of property which is not a capital asset, as the case may be. (Sec. 40 (C) (4) (b), *supra*)

The substituted basis of the properties transferred by SAFI to NAI shall comply with the rule that cash and other cash items will be excluded from the computation of the adjusted basis of the properties transferred for purposes of determining whether liabilities assumed and to which the property is subject do not exceed the adjusted basis of the property transferred pursuant to No. IV(A)(2) of Revenue Memorandum Ruling (RMR) No. 2-2002 dated June 10, 2002.

Accordingly, the allocated shares and liabilities, and the substituted basis of the assets transferred by SAFI to NAI, based on SAFI's audited financial statements as of December 31, 2010 shall be as follows:

| | **Amount (in Php)** | **Allocated Liabilities** | **Allocated Shares** | **Substituted Basis (in Php)** |
|---|---|---|---|---|
| Cash and Cash Equivalents | | | | |
| Receivables | | | | |
| Due from related parties | | | | |
| Inventories | | | | |

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| | | | | |
|---|---|---|---|---|
| Prepayments and other current assets | | | | |
| Investment in shares of stock | | | | |
| Property, plant and equipment | | | | |
| Investment properties | | | | |
| Deferred income tax assets | | | | |
| Pension assets | | | | |
| Other noncurrent assets | | | | |
| **TOTAL** | | | | |

| **Liabilities** | **Amount (in Php)** |
|---|---|
| Short-term bank loans | |
| Accounts payable and accrued expenses | |
| Current portion of liabilities under finance lease | |
| Long-term bank loans – net of current portion | |
| Liabilities under finance lease – net of current portion | |
| Accrued rent | |
| **TOTAL** | |

2. Section 105 of the Tax Code of 1997, as amended, identifies the persons liable for the Value-Added-Tax. Thus,

> "SECTION 105. Persons Liable. – Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added-tax (VAT) imposed in Sections 106 to 108 of this Code.
>
> xxx."

However, Section 4.106-8(b)(3) of Revenue Regulations (RR) No. 16-2005, as amended by RR No. 4-2007[1], specifically excludes mergers from being subject to output tax. Hence,

> "**SECTION 4.106-8**. Change or Cessation of Status as VAT-registered Person. –
>
> xxx
>
> (b) **Not subject to output tax.**

[1] now exempted from VAT under Section 34 of RA No. 10963, amending Section 109 of RA Nos. 8424 and 9337

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The VAT shall not apply to goods or properties existing as of the occurrence of the following:

(1) xxx

(2) xxx

(3) Merger or consolidation of corporations. The unused input tax of the dissolved corporation, as of the date of merger or consolidation, shall be absorbed by the surviving or new corporation."

Thus, the above-mentioned transaction shall not be subject to VAT, and any unused input VAT of SAFI as of the effective date of merger will be transferred to and absorbed by NAI pursuant to Section 4.106-8(b)(3) of RR No. 16-2005, as amended, the said transfer being considered a transaction "not subject to output tax" under the said Section.

3. Well-settled in our jurisprudence is the fact that the essential elements of a valid donation are: (1) the reduction of the patrimony of the donor, (2) the increase in the patrimony of the donee, and (3) the intent to do an act of liberality *(animus donandi)*.

Clearly, there is no intention on the part of any of the parties to the merger – SAFI to donate to NAI its assets since the transaction is purely for legitimate business purpose. Thus, the aforesaid merger will not be subject to gift tax since there is no intention to donate, and the transaction is a *bonafide* merger effected solely for business reasons.

4. No DST is due on the transfer of assets made pursuant to the Plan of Merger under Section 199 (m) of the Tax Code, as amended by Republic Act No. 9243, in relation to Section 40 (C) (2) of the Tax Code, as amended. *(BIR Ruling No. 100-2017 dated March 2, 2017)*

In the case of *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue* (C.T.A. Case No. 6477 dated April 20, 2003), the Court stated that all the integral parts of the merger including the surrender of shares in exchange for shares, should be treated as a single and continuing transaction subject only to one DST. The Court held, as follows:

> "As earlier stated, DST is in the nature of an excise tax because it is really imposed on the privilege to enter into a transaction. Its imposition, therefore, should be only once. And in a statutory merger, there is only one transaction, i.e., the issuance by the surviving corporation of its own shares of stock to the stockholders of the absorbed corporation in exchange for the shares surrendered by the shareholders of the absorbed corporation. All other transactions which are an integral and inherent part of the merger, such as the absorption of real property, should no longer be subject to another round of DST. In other words, all the integral parts of the merger (e.g., surrender of shares in exchange for shares, transfer of assets, assumption of liabilities, etc.) should be treated as a

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single and continuing transaction subject only to one DST. The transfer of real property is not a transaction separate and distinct from the merger but an integral part or a mere continuation of the initial transaction which was previously consummated."

5. Any excess and unutilized creditable withholding taxes (CWT), which form part of the assets to be transferred by SAFI as of the effective date of the merger, shall be transferred to and vested in NAI, as the surviving corporation, and such excess CWT may be utilized by the latter. *(BIR Ruling No. 100-2017 dated March 2, 2017)*

6. DST at the rate of P1.00[2] on each P200 par value, or fractional part thereof, shall be imposed on the original issuance of shares by NAI to the stockholders of SAFI as a consequence of the merger as provided under Section 174 of the Tax Code, as amended.

7. It is to be emphasized, however, that the net operating loss carry-over (NOLCO) under Section 34(D) (3) of the Tax Code, as amended, and as implemented by Revenue Regulations No. 14-2001, of SAFI, if any, is not one of their assets that can be transferred and absorbed by the surviving corporation, NAI, as this privilege or deduction can be availed of by SAFI only. Accordingly, the tax-free merger between SAFI and NAI does not cover the NOLCO of the former.

8. The excess and unexpired minimum corporate income tax (MCIT) of SAFI, as of the effective date of the merger as of year 2011, if any, shall be carried forward and credited against the normal income tax due of NAI for the three (3) immediately succeeding taxable years pursuant to Section 27(E)(2) of the Tax Code, as amended; and

9. The retained earnings of the absorbed corporation amounting to

Pesos (P ) are subject to the ten percent (10%) final withholding tax on dividends constructively received by its individual shareholders pursuant to Section 24 (B) (2) of the Tax Code. *(BIR Ruling No. 1422-18 dated December 7, 2018)*

In order that the above-described reorganization can be considered as merger under Section 40 (C) (2) and (6) (b) of the Tax Code of 1997, as amended, the parties to the merger should comply with the following requirements set forth under Revenue Regulations No. 18-2001:

A. The plan of reorganization should be adopted by each of the corporations, parties thereto, the adoption being shown by the acts of its duly constituted responsible officers and appearing upon the official records of the corporation. Each corporation, which is a party to the reorganization, shall file, as part of its return for the taxable year within which the reorganization occurred a complete statement of all facts pertinent to the non-recognition of gain or loss in connection with the reorganization, including:

   1. A copy of the plan of reorganization, together with a statement executed under the penalties of perjury, showing in full the purposes thereof and in detail all transactions incident to, or pursuant to the plan;

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[2] now P2.00 on each P200.00 under Section 51 of RA No. 10963, amending Section 174 of RA No. 8424

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2. A complete statement of all cost or other basis of all property, including all stocks or securities, transferred incident to the plan;

3. A statement of the amount of stock or securities and other property or money received from the exchange, including a statement of all distribution of other disposition made thereof. The amount of each kind of stock or securities and other property received shall be stated on the basis of the fair market value thereof at the date of the exchange;

4. A statement of the amount and nature of any liabilities assumed upon the exchange, and the amount and nature of any liabilities to which any of the property acquired in the exchange is subject.

B. Every taxpayer, other than a corporation, party to the reorganization, who received stock or securities and other property or money upon a tax-free exchange in connection with a corporate reorganization shall incorporate in his income tax return for the taxable year in which the exchange takes place a complete statement of all facts pertinent to the non-recognition of gain or loss upon such exchange, including:

1. A statement of the cost or other basis of the stock or securities transferred in the exchange; and

2. A statement in full of the amount of stock or securities and other property or money received from the exchange, including any liabilities assumed upon the exchange, and any liabilities to which property received is subject. The amount of each kind of stock or securities and other property (other liabilities assumed upon the exchange) received shall be set forth upon the basis of the fair market value thereof at the date of the exchange.

C. Records in substantial form shall be kept by every taxpayer who participates in a tax-free exchange in connection with a corporate reorganization showing the cost or other basis of the transferred property or money received (including any liabilities assumed on the exchange, or any liabilities to which any of the properties received were subject), in order to facilitate the determination of gain or loss from subsequent disposition of such stock of securities and other property received from the exchange.

In addition to the foregoing requirements, the parties shall enclose with their respective income tax returns for the taxable year in which the merger occurred a copy of the request for ruling filed with, and the corresponding ruling issued by, the Bureau of Internal Revenue, both duly stamp-received by the appropriate office of the Bureau of Internal Revenue.

Such parties shall include as a note to their respective audited financial statements for the taxable year in which the merger occurred a statement to the effect that they hold such assets/shares acquired in a merger and the year in which such merger occurred, and in the taxable years until the subject properties are subsequently transferred to another transferee.

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Moreover, the shareholders of the absorbed/dissolving corporation and the surviving/transferee corporation shall record in their respective books of accounts the mandatory accounting entries stated in Annex "B" hereof, pursuant to Revenue Memorandum Order (RMO) No. 17-2016.

Furthermore, the parties shall cause to annotate at the back of the Transfer Certificates of Title (TCT) and Certificates of Stock, the date the merger was executed, the original or historical cost of acquisition of the properties or shares of stock involved, and the fact that no gain or loss was recognized as a result of such merger; provided however, that any violation by the Register of Deeds or by the Corporate Secretary of this condition shall be penalized under Section 269 or 275, as the case may be, of the Tax Code of 1997, as amended.

Finally, the parties are required to submit to the Law and Legislative Division, Bureau of Internal Revenue, proof of annotation of the substituted basis of the shares of stock and/or real properties involved in the transfer within ninety (90) days from receipt of this ruling. Violation of this requirement is subject to the penalties provided in Section 275 of the Tax Code of 1997.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

**CAESAR R. DULAY**
*Commissioner of Internal Revenue*

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K-1
gps(safi-nai merger)

*Section 40(C)(2) & 6(b)*
*SAFI – NAI merger*
*10*
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**Annex "A"**

# LIST OF PROPERTY/IES TRANSFERRED

(Pursuant to Section 40(C)(2) and 6(c) of the Tax Code of 1997,
Revenue Regulations No. 18-2001 dated November 13, 2001,
and Revenue Memorandum Order No. 32-2001 dated November 28, 2001)

Name of Transferee: **NUTRI-ASIA, INC.**

| No. | Nature of Properties | Transfer Certificates of Title No. / Tax Declaration No. | Property Description and Classification | Acquisition Cost | Adjustment / Depreciation | Original / Adjusted Basis (in PhP) |
|---|---|---|---|---|---|---|
| 1 | Condominium | | | | | |
| 2 | Land | | | | - | |
| 3 | Imp - Warehouse | | | - | - | - |
| 4 | Imp - Warehouse | | | - | - | - |
| 5 | Imp - Warehouse | | | - | - | - |
| 6 | Imp - Open Shed | | | - | - | - |
| 7 | Land | | | | - | |
| 8 | Land | | | | - | |
| 9 | Imp - Warehouse | | | - | - | - |
| 10 | Land | | | | - | |
| 11 | Imp - Building | | | - | - | - |
| 12 | Imp - Fence | | | - | - | - |
| 13 | Imp - Building | | | - | - | - |
| 14 | Imp - Stockroom | | | - | - | - |

*Section 40(C)(2) & 6(b)*
*SAFI – NAI merger*
*11*
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| | | | | | | |
|---|---|---|---|---|---|---|
| 15 | Land | | | | - | |
| 16 | Land | | | | - | |
| 17 | Land | | | | - | |
| 18 | Land | | | | - | |
| 19 | Land | | | | - | |
| 20 | Land | | | | - | |
| **TOTAL (Php)** | | | | | | |

| No. | Name of Issuing Corporation | Stock Certificate No. | Number of Shares | Valuation (Original or Adjusted, as indicated) (in Php) |
|---|---|---|---|---|
| 1 | NutriAsia, Inc. (BVI) | | | |
| | **TOTAL** | | | |

* The total Investment Properties amounts to as indicated in the Audited Financial Statement as of December 31, 2010. The difference of pertains to the development cost included as part of Investment Properties.

<table>
<tr><th>Particulars</th><th>Individual Shareholders' Book<br>(The entry/ies shall be per individual shareholder of the absorbed corporation)</th><th>Transferee' s Book</th></tr>
<tr><td>Journal Entry to Record the Tax-Free Exchange</td><td>Investment in (name of transferee) xxx.xx<br>Investment in (name of dissolving corporation) xxx.xx<br>Dividend Income (net of FWT on dividend) xxx.xx<br><br>To record the Tax-Free Exchange (TFE) of investment in (share type) shares of (name issuing corporation/s) with aggregate fair market value of P_____ in exchange for (type and no. of share) of (name of transferee) with par value of P_____ per share.</td><td>Investment in (issuing corp. for shares of stock) xxx.xx<br>PPE - Land & Improvement (for real props) xxx.xx<br>Others Assets (as applicable) xxx.xx<br>Liabilities xxx.xx<br>Capital Stock xxx.xx<br>Additional Paid-In Capital xxx.xx<br><br>To record the Tax-Free Exchange (TFE) of real properties, investment in (share type) shares of (name issuing corp/s), and other assets with aggregate fair market value of P_____, including liabilities assumed resulting from merger, in exchange for (type and no. of share) of (name of transferee) with par value of P_____ per share.</td></tr>
<tr><td>Balance Sheet Notes Entry</td><td>Investment includes (no. and type of share/s) with par value of P_____ in (name of transferee) resulting from the Tax-Free Exchange of investment in (no. and type of share/s) of (issuing corporation/s) covered by Stock Certificate No/s. _____ which were acquired for the total cost of (substituted basis) and which have fair market value as of the date of exchange amounting to P_____.</td><td>Real properties, investment in (no. and type of share/s) of (issuing corporation/s) and other assets were acquired through merger as evidenced by Plan of Merger and Articles of Merger, including the increase of the Authorized Capital Stock of (name of transferee), approved by the Securities and Exchange Commission on (date). The total acquisition cost/substituted cost to (name of transferee) of the investment/s amounts to (FMV at the time of exchange). The real properties, investment/s and other assets were previously covered by Transfer Certificate of Title and Stock Certificate No/s. _____ issued by (issuing corporation/s) and are now presently covered by Stock Certificate No/s. _____ constituting (no. and type of share/s) [total] shares in the name of (name of transferee).</td></tr>
<tr><td>Proforma Entries to Record Subsequent Sale / Transfer</td><td>Cash or Accounts receivables xxx.xx<br>Investment in (name of transferee) xxx.xx<br>Gain on Sale of Investment xxx.xx<br><br>To record subsequent sale / transfer of investment acquired thru Tax-Free Exchange<br><br>Current<br>Tax Payable xxx.xx xxx.xx<br><br>Provision for Tax as follows:<br><br>
<table>
<tr><th colspan="2">Tax Type</th><th>Tax Rate*</th><th>Multiply By</th><th>Amount</th></tr>
<tr><td>1)</td><td>Net Capital Gains Tax</td><td>5% on P100,000 and 10% on excess</td><td>Gains realized on TFE</td><td rowspan="2">xxx.xx</td></tr>
<tr><td>OR</td><td>Stock Transaction Tax</td><td>1/2 of 1%</td><td>FMV of inv/s at the time of TFE</td></tr>
<tr><td>2)</td><td>Net Capital Gains Tax</td><td>15%</td><td>Gains realized on subsequent sale of investment/s</td><td rowspan="2">xxx.xx</td></tr>
<tr><td>OR</td><td>Stock Transaction Tax</td><td>6/10 of 1%</td><td>Selling Price of investment at the time of subsequent sale</td></tr>
<tr><td colspan="3">Total Tax Payable</td><td></td><td>xxx.xx</td></tr>
</table>
<br>* If subsequent sale/s of investment/s was/were made before January 1, 2018, the tax rates used in the computation of Net Capital Gains Tax and Stock Transaction Tax at the time of tax-free exchange shall apply.<br><br>* Computation of Gain Realised on Subsequent Sale of Investment:<br>Selling Price xxx.xx<br>Less: Cost (Substituted Basis) xxx.xx<br>Net Capital Gain on sale of unlisted shares xxx.xx<br><br>* Per RMO 17-2016, the substituted basis of the stock or securities received by the transferor on a tax-free exchange shall be as follows: (1) The original basis of the property, stock or securities to be transferred; (2) Less: (a) money received, if any, and (b) the fair market value of the other property received, if any; (3)Plus: (a) the amount treated as dividend of the shareholder, if any, and (b) the amount of any gain that was recognized on the exchange, if any</td><td>Cash or Accounts receivables xxx.xx<br>Investment in (name of issuing corporation) / PPE - Land & Improvement / Other Assets xxx.xx<br>Gain on Sale of Investment xxx.xx<br><br>To record subsequent sale / transfer of real properties, investment/s and/or other assets acquired thru Tax-Free<br><br>Current<br>Tax Payable xxx xxx.xx<br><br>Provision for tax as follows:<br><br>
<table>
<tr><th colspan="2">Tax Type</th><th>Tax Rate*</th><th>Multiply By</th><th>Amount</th></tr>
<tr><td>1)</td><td>Net Capital Gains Tax</td><td>15%</td><td>Gains realized on subsequent sale of investment/s</td><td rowspan="2">xxx.xx</td></tr>
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<tr><td colspan="3">Total Tax Payable</td><td></td><td>xxx.xx</td></tr>
</table>
<br>
<table>
<tr><th colspan="2">Tax Type</th><th>Rate</th><th>Multiply By</th><th>Amount</th></tr>
<tr><td>1)</td><td>Withholding Tax-ONETT</td><td>1.5% to 6% per RR No. 2-2001</td><td rowspan="3">Fair Market Value (FMV) of the property/ies at the time of subsequent sale / transfer</td><td>xxx.xx</td></tr>
<tr><td>2)</td><td>Documentary Stamp Tax (DST)</td><td>1.5% for every P1,000 and fractional part thereof</td><td>xxx.xx</td></tr>
<tr><td>3)</td><td>Value-Added Tax (VAT)</td><td>12%</td><td>xxx.xx</td></tr>
<tr><td colspan="3">Total Tax Payable</td><td>xxx.xx</td></tr>
</table>
<br>*Gain on sale of property/ies is subject to Normal Corporate Income Tax (NCIT)<br><br>*FMV at the time of subsequent sale / transfer refers to the selling price, zonal value or the value reflected in the tax declaration, whichever is highest.</td></tr>
</table>

Making the Public Know

**BUREAU OF INTERNAL REVENUE**
Quezon City

**1st INDORSEMENT**

Referred to the **Revenue District Office No. 116, Large Taxpayers Service, BIR National Office,** the herein copy of BIR Ruling No. or Certification Ruling SN No. [redacted] dated JUL 30 2020, relative to the statutory merger of **Southeast Asia Food, Inc.** and **Nutri-Asia, Inc.**, with principal office in JY Campos Centre, 9th Avenue cor. 30th Street, Bonifacio Global City, Taguig City, pursuant to Section 40(C)(2) of the Tax Code of 1997 as amended.

In this connection, you are hereby requested to conduct necessary evaluation once a copy of the above-mentioned ruling is presented to ascertain whether the facts as represented in the said ruling are true and the requirements set forth therein are complied with.

Your prompt report hereon is earnestly desired.

**CAESAR R. DULAY**
Commissioner of Internal Revenue

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