December 9, 2019

BIR RULING NO. 768-19

Sec. 24 (D) (1), NIRC; BIR Ruling No. 521-2012

AAA

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Dear AAA,

This refers to your two (2) letters dated November 9, 2015 and February 2, 2016 requesting for a ruling on whether or not the transfer of your eight (8) real properties to a revocable living trust is exempt from taxes.

Based on the Certificate of Trust dated February 13, 2007, it is shown that on January 25, 2004, as amended on February 13, 2007, AAA, as Settlor, transferred to AAA, as Trustee of the AAA Revocable Living Trust, certain items of real and personal property; that pursuant to the aforesaid Trust, all assets of AAA shall be transferred to AAA as Trustee of the AAA Revocable Living Trust; and that on October 9, 2015, AAA executed eight (8) Quit Claim Deeds in favor of the AAA Revocable Living Trust over the eight (8) real properties described below, to wit:

TCT No.	Area (sq. m.)	Location
1. T-100970	81	Guinobatan, Albay
2. T-100971	81	Guinobatan, Albay
3. T-100972	80	Guinobatan, Albay
4. T-100973	80	Guinobatan, Albay
5. T-100974	80	Guinobatan, Albay
6. T-100975	80	Guinobatan, Albay
7. T-553346 (M)	262	San Jose del Monte, Bulacan
8. T-553380 (M)	252	San Jose del Monte, Bulacan

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The Quit Claim Deeds provide that the Grantor grants all of the Grantor's rights, title and interest in the subject properties to the Grantee and assigns forever, so that neither Grantor nor Grantor's legal representatives or assigns shall have claim or demand of any right or title to said properties.

Based on the above representations, you now claim that the above transfer of the subject eight (8) real properties is not a taxable transfer since there was neither change of ownership nor monetary consideration involved.

In reply, please be informed that the transfer of the subject eight (8) parcels of land through the execution of the Quit Claim Deeds by AAA in favor of the AAA Revocable Living Trust is absolute and irrevocable in nature. Contrary to your contention, the transfer of the eight (8) lots in favor of the Trust actually involved change of ownership considering that AAA did not retain any right of possession or ownership over the subject properties. A revocable transfer of property is one in which the property continues to be owned by the transferor during his lifetime notwithstanding the transfer, as he still retains beneficial ownership. In this case, AAA unequivocally conveyed any and all rights, title and interest which she may have over the subject lots in favor of the Trust.

Such absolute and irrevocable transfer is covered by the clause "other disposition of real property" under Section 24 (D) (1) of the Tax Code of 1997, as amended, which provides that in the case of 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, 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 the Tax Code, whichever is higher, is imposed upon capital gains presumed to have been realized therefrom.

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" includes within its purview all kinds of dispositions of real property under Section 24 (D) (1) of the 1997 Tax Code, unless specifically excluded therefrom or subject to another tax treatment pursuant to different provisions of the 1997 Tax Code. In the absence of an express statutory provision exempting from tax the herein transfer of the

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subject lots, said transfer is taxable under Section 24 (D) (1) of the 1997 Tax Code, as amended. (*BIR Ruling No. 521-2012* dated August 23, 2012)

Please be guided accordingly.

Very truly yours,

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

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