REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 27 (C) NIRC
BIR Ruling No. 445-12 BIR Ruling No. 477-11
#351-2017

8-8-2017

Mr. Florencio B. Bellas, Jr.
Blk. 21, Lot 1, Lindaville Subdivision Phase II
Tagbilaran City

Dear Mr. Florencio,

This refers to your request for exemption from the payment of capital gains and documentary stamp taxes on the sale of a parcel of land by Government Service Insurance System (GSIS) in your favor.

Documents submitted show that GSIS is the registered owner of a parcel of land located at Block 21, Lot 1, Lindaville Subdivision Phase II, Tagbilaran City, covered by Transfer Certificate of Title (TCT) No. of the Registry of Deeds for the City of Tagbilaran, containing an area of Two Hundred Forty Four (244) sq.m.; that on February 28, 2008, the GSIS executed a Deed of Absolute Sale transferring the above-described property in favor of Mr. Florencio B. Bellas, Jr. for a consideration of Pesos (PhP).

In reply, please be informed that Section 39 of Republic Act (RA) No. 8291 (Government Service Insurance System Act of 1997) provides:

> "SECTION 39. Exemption from Tax, Legal Process and Lien. — It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the GSIS shall be preserved and maintained at all times and that contribution rates necessary to sustain the benefits under this Act shall be kept as low as possible in order not to burden the members of the GSIS and their employers. Taxes imposed on the GSIS tend to impair the actuarial solvency of its funds and increase the contribution rate necessary to sustain the benefits of this Act. Accordingly, notwithstanding any laws to the contrary, the GSIS, its assets, revenues including all accruals thereto, and benefits paid, shall be exempt from all taxes, assessments, fees, charges, or duties of all kinds. These exemptions shall continue unless expressly and specifically revoked and any assessment against the GSIS as of the approval of this Act are hereby considered paid. Consequently, all laws, ordinances, regulations, issuances, opinions or jurisprudence contrary to or in derogation of this provision are hereby deemed repealed, superseded and rendered ineffective and without legal force and effect.

> Moreover, these exemptions shall not be affected by subsequent laws to the contrary unless this section is expressly, specifically and categorically revoked or repealed by law and a provision is enacted to substitute or replace the exemption referred to herein as an essential factor to maintain or protect the solvency of the fund, notwithstanding and independently of the guaranty of the national government to secure such solvency or liability." (Emphasis supplied)

Moreover, the tax exempt status of GSIS under RA No. 8291 was further reiterated in a subsequent law, RA No. 8424, otherwise known as the "National Internal Revenue Code of 1997" (NIRC), as amended. Section 27 (C) of the NIRC, as amended, reads as follows:

> "(C) Government-owned or -Controlled Corporations, Agencies or Instrumentalities. — The provisions of existing special or general laws to the contrary notwithstanding, all corporations, agencies or instrumentalities owned or controlled by the Government, except the Government Service Insurance System (GSIS), the Social Security System (SSS), the Philippine Health Insurance Corporation (PHIC), the local water districts (LWDs)[1] and the Philippine Charity Sweepstakes Office (PCSO), shall pay such rate of tax upon their taxable income as are imposed by this Section upon corporations or associations engaged in a similar business, industry, or activity."

Based from the foregoing provisions, the GSIS, its assets, revenues, including all accruals thereto, and benefits paid, shall not be subject to income tax, and consequently, to the creditable and final withholding taxes. (BIR Ruling No. 445-2012 dated July 9, 2012, BIR Ruling No. 477-2011 dated December 5, 2011)

Accordingly, the sale of the subject parcel of land by GSIS in favor of Mr. Florencio B. Bellas, Jr. is not subject to capital gains tax. However, Mr. Florencio B. Bellas, Jr. shall be the one liable to pay the documentary stamp tax imposed under Section 196 in relation to Section 173 of the Tax Code of 1997, as amended.

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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[1] RA 10026