REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Revenue Regulations No. 7-2003		634-2017

Person to Contact: Chief, Law Division
Tel Nos. 926-55-36 / 927-09-63

Date: December 19, 2017

MIDAS INDUSTRIES CORPORATION
No. 3, Escarpment Rd., Bagong Ilog
Pasig City

Attention: **Anna Francesca L. Lim**
Director

Gentlemen:

This refers to your letter dated December 5, 2016 requesting, on behalf of Midas Industries Corporation (the Company), for confirmatory ruling that the sale by the Company of parcels of land which have not been used in business for more than two (2) years is considered sale of capital assets pursuant to the Revenue Regulations (RR) No. 7-2003.

Documents submitted show that the Company, with Tax Identification No. is a corporation duly registered with Securities and Exchange Commission (SEC) under Company Registration No. ; that the primary purpose for which it was organized is to produce, manufacture, contract, process, assemble, organize, develop, sell, lease, dispose of any and all hardware and handling equipment, for industrial, commercial and all kinds of varieties of mechanical, electrical machines, parts, supplies, accessories and materials entered into or used in the manufacture, processing and operation of the same, among other things; that the Company had acquired four (4) parcels of land, covered by Transfer Certificates of Title (TCT) Nos. and , which the Company used to house its business operations; that due to financial difficulty, the Company has already stopped its commercial operations since 1987, as evidenced by the Certification issued by the Office of the Barangay Captain of Brgy. Bagong Ilog, Pasig City; that the Company has also filed its Audited Financial Statements and Annual Income Tax Return for taxable year 2009 indicating therein that it has no business operations during the said year; that said lots have not been used in business and remained idle from the time the Company had ceased its business operations in 1987 until said lots were sold in 2014; that the Office of the City Assessor of Pasig City has issued Certifications, all dated September 25, 2017, that the subject lots, now registered in the name of Alaska Land, Inc., have no existing improvements declared for taxation as of September 25, 2017; and that the Corporate Secretary of Midas Industries Corporation has executed an affidavit stating that the Company has never engaged in real estate business from the time of its incorporation in 1975.

In reply, please be informed that Section 3 (a) of RR No. 7-2003 provides:

"SEC. 3. Guidelines in Determining Whether a Particular Real Property is a Capital Asset or Ordinary Asset. —

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> *e. Treatment of abandoned and idle real properties. — Real properties formerly forming part of the stock in trade of a taxpayer engaged in the real estate business, or formerly being used in the trade or business of a taxpayer engaged or not engaged in the real estate business, which were later on abandoned and became idle, shall continue to be treated as ordinary assets. Real property initially acquired by a taxpayer engaged in the real estate business shall not result in its conversion into a capital asset even if the same is subsequently abandoned or becomes idle.*
>
> *Provided however, that properties classified as ordinary assets for being used in business by a taxpayer engaged in business other than real estate business as defined in Section 2(g) hereof are automatically converted into capital assets upon showing of proof that the same have not been used in business for more than two (2) years prior to the consummation of the taxable transactions involving said properties."* (Emphasis supplied)

The above provision provides for the automatic conversion of real property used in business by a taxpayer "engaged in business other than real estate business" from ordinary assets into capital assets upon showing of proof that the same have not been used in business for more than two (2) years. The foregoing provision finds application in this case. The two (2) important conditions set forth by RR No. 7-2003 for the automatic conversion of ordinary assets into capital assets, to wit: 1) the assets were previously used in business by a taxpayer not engaged in real estate business; and 2) there must be a showing that the same have not been used in business for more than two (2) years, are both present in this case. It can be gleaned from the Articles of Incorporation of Midas Industries Corporation that it is not engaged in the real estate business. Moreover, based on the Certification issued by the Office of the Barangay Captain of Brgy. Bagong Ilog, Pasig City, and the Company's Audited Financial Statements and Annual Income Tax Return for taxable year 2009, the Company has already ceased its business operation in 1987, leaving the above properties idle since then and up to 2014 when said lots were sold.

In view of the foregoing, this Office is of the opinion, as it hereby rules that the real properties covered by TCT Nos. , , and , having met the conditions under RR No. 7-2003, are considered capital assets of Midas Industries Corporation when it sold said properties in 2014.

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 as null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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