REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 24 (D) (1) of the National Internal Revenue Code of 1997, as amended	
BIR Ruling No. 1326-2018	
0703-2018	
NOV 2 5 2018	

VICTOR L. CHING
BARBARA D. VERDEBLANCO
Pound St., Villa Arca II Subd.,
Baesa, Quezon City

Sir/Madam:

This refers to your letter dated November 22, 2017, requesting for the issuance of a ruling, relative to the Absolute Deed of Exchange you executed on October 27, 2017.

It is represented that Barbara D. Verdeblanco is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. of the Registry of Deeds for Quezon City, bounded and described as follows:

> *"A parcel of land (Lot 21-B of the Subdivision Plan PSD-00-077630, being a portion of Lot 21, Block 4, PSD-13-016858, LRC Record No. 5975), situated in Barangay Baesa, Quezon City, Metro Manila. . . . . . containing an area of fifty (50) square meters, more or less. . . . ."*

On the other hand, Victor L. Ching is the registered owner of a parcel of land covered by TCT No. of the Registry of Deeds for Quezon City, bounded and described as follows:

> *"A parcel of land (Lot 21-A of the Subdivision Plan PSD-00-077630, being a portion of Lot 21, Block 4, PSD-13-016858, LRC Record No. 5975), situated in Barangay Baesa, Quezon City, Metro Manila, ... containing an area of fifty (50) square meters, more or less. . . . ."*

It is further represented that it was only on October 2017 when you noticed that there was an error in your respective properties. You inadvertently overlooked the inaccuracy of land description described in the said TCTs that resulted to the swapping/switching of the land description in particular the lot numbers in your respective TCTs. The parcel of land with Lot No. 21-A described in TCT N s truly and legally owned by Barbara D. Verdeblanco while the parcel of land with Lot No. 21-B described in TCT No. is truly and legally owned by Victor L. Ching. Thus, on October 27, 2017, you executed an Absolute Deed of Exchange to effectively rectify the said TCTs and finally determine the lawful ownership in the said parcels of land. Hence, this request.

In reply, please be informed that Section 24(D)(1) of the National Internal Revenue Code of 1997, as amended, states that:

> *"**SEC. 24. Income Tax Rates.** –*
>
> *xxx xxx xxx*
>
> *(D) Capital Gains from Sale of Real Property. —*

(1) In General. - The provisions of Section 39(B) notwithstanding, 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 this Code, whichever is higher, is hereby imposed upon capital gains presumed to have been realized from the 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, including estates and trusts: Provided, That the tax liability, if any, on gains from sales or other dispositions of real property to the government or any of its political subdivisions or agencies or to government-owned or controlled corporations shall be determined either under Section 24 (A) or under this Subsection, at the option of the taxpayer."* (Emphasis supplied)

In the case of *Salud vs. Commissioner of Internal Revenue*[1], the Court of Tax Appeals had the occasion to rule that the National Internal Revenue Code of 1997, 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[2].

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 National Internal Revenue Code of 1997, as amended, unless specifically excluded therefrom or subject to another tax treatment pursuant to different provisions of the National Internal Revenue Code of 1997, as amended. Thus, the Absolute Deed of Exchange dated October 27, 2018 executed you, in the absence of a specific law excluding it from the coverage of Section 24 (D) (1) of the National Internal Revenue Code of 1997, as amended, is deemed included within the purview of the said provision. Therefore, it shall be subject to the capital gains tax (CGT) imposed therein.

Moreover, the conveyance being a disposition of real property under Section 24 (D) of the National Internal Revenue Code of 1997, as amended, is likewise subject to the documentary stamp taxes (DST) imposed in Section 188 and Section 196 of the National Internal Revenue Code of 1997, as amended.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] CTA EB Case No. 412 dated April 30, 2009
[2] Black's Law Dictionary, 6th Edition