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

Secs. 2 & 10 of RA No. 4726; Sec. 188 of the Tax Code of 1997, as amended; Sec. 185 of Regulation No. 26;
BIR Ruling No. 474-19
CT-483-2021
DEC 21 2021

HOTEL AURELIO, INC.
Roxas Boulevard, Padre Faura.
Ermita, Manila

Attention **Atty. Neil L. Salcedo**
Counsel

Gentlemen:

This refers to your request for a ruling that the transfer or conveyance of real properties with Transfer Certificate of Title (TCT) Nos. and , by Aurelio Hotel, Inc. (AHI) in favor of Aurelio Condominium Corporation (ACC), is exempt from payment of capital gains tax (CGT), documentary stamp tax (DST) and any other taxes under the National Internal Revenue Code (Tax Code) of 1997, as amended.

It is represented that AHI is a corporation duly organized and existing under the laws of the Philippines, with principal office address at Roxas Blvd., P. Faura, Ermita, Manila; that it is the registered owner/developer of an Eighty-One (81) unit condominium project known as the "Plaza Tower Condominium", located at #1175 Guerrero St., Ermita, Manila and is covered by TCT Nos. and ; that the Master Deed with Declaration of Restrictions of ACC, which was executed on February 10, 1982, states that the common areas of the project shall include the parcels of land covered by TCT Nos. and ; and that AHI and ACC executed a Deed of Conveyance dated October 1, 2021 transferring the ownership over the aforesaid parcels of land from AHI to ACC.

In reply, please be informed that since the conveyance is without consideration to ACC, no taxable income will be generated and therefore, no CGT or creditable withholding tax is payable and collectible. The purpose of the conveyance to ACC is for the management of the project for the common benefit of the unit owners pursuant to Sections 2 and 10 of Republic Act No. 4726, to wit:

"Section 2. A condominium is an interest in real property consisting of separate interest in a unit in a residential, industrial or commercial building and an undivided interest in common, directly or indirectly, in the land on which it is located and in other common areas of the building. A condominium may include, in addition, a separate interest in other portions of such real property. ***Title to the common areas, including the land, or the appurtenant interests in such areas, may be held by a corporation specially formed for the purpose (hereinafter known as the "condominium corporation")*** *in which the holders of separate interest shall automatically be members or shareholders, to the exclusion of others, in proportion to the appurtenant interest of their respective units in the common areas.*

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*Section 10. **Whenever the common areas in a condominium project are held by a condominium corporation, such corporation shall constitute the management body of the project. The corporate purposes of such a corporation shall be limited to the holding of the common areas, either in ownership or any other interest in real property recognized by law, to the management of the project, and to such other purposes as may be necessary, incidental or convenient to the accomplishment of said purposes.** The articles of incorporation or by-laws of the corporation shall not contain any provision contrary to or inconsistent with the provisions of this Act, the enabling or master deed, or the declaration of restrictions of the project. Membership in a condominium corporation, regardless of whether it is a stock or non-stock corporation, shall not be transferable separately from the condominium unit of which it is an appurtenance. When a member or stockholder ceases to own a unit in the project in which the condominium corporation owns or holds the common areas, he shall automatically cease to be a member or stockholder of the condominium corporation."* (Emphasis supplied)

Moreover, it is also exempt from the imposition of DST imposed under Sec. 185 of Regulation No. 26, otherwise known as the Revised Documentary Stamp Tax Regulations, which provides that "conveyances of realty not in connection with a sale, to trustees or other persons without consideration are not taxable." However, the notarial acknowledgment to such deed is subject to the DST of Thirty Pesos (P30.00) under Sec. 188 of the Tax Code of 1997, as amended.

Finally, the transfer of land and the common areas of the Condominium Corporation as embodied in the Deed of Conveyance is also not subject to value-added tax (VAT) under Title IV of the Tax Code of 1997, as amended. It must also be noted that the transfer of the real property from one party to another where the beneficial ownership of which is retained by the original party is not taxable. Hence, when the title of the land and the common areas are transferred to the condominium corporation composed of the condominium unit owners, the real estate developer receives no additional payment. The conveyance is without any monetary consideration and is not in connection with any sale in favor of the condominium corporation. As such, the same cannot be considered as a transaction subject to VAT pursuant to Section 105 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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