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

Sec. 2 (t) of Revenue Bulletin No. 01-03
BIR Ruling No. 264-15; BIR Ruling No. 648-12
481-2017 10-19-2017

LOPEZ AND CO.
LAC Center, 2518 Leiva Street
Sta. Ana, Manila

Attention: **<u>Mr. RESTITUTO T. LOPEZ – Senior Partner</u>**

Sir:

This refers to your letter dated October 17, 2016 requesting for tax ruling regarding the **proposed sale of real property** of SPENCERS LANDHOLDINGS, INCORPORATED to a tax-exempt school duly accredited by the Commission on Higher Education (CHED).

The facts as stated in your letter are as follows:

"Spencers Landholdings, Inc. ("Seller") was registered with the Philippine Securities And Exchange Commission, With SEC Reg. No. on January 12, 1994 primarily to engage in real estate property development. It is a VAT-registered taxpayer with registered office address at LAC Center, 2518 Leiva St., Sta. Ana, Manila. It has not started commercial operation from the time it was incorporated.

The Company's Board of Directors have decided to sell its real property to a tax-exempt school, which is a non-stock, non-government organization.

The real property amounting to as of December 31, 2015 consists of land and property development and is part of Property and Equipment account per its 2015 Audit Report and not part of inventory on hand.

In addition, the property's planned development did not push through and subject property became idle and therefore not held for sale nor held for lease in the ordinary course of Spencers' trade or business.

From incorporation date onwards, seller did not realize nor generate any revenues. Its statement of comprehensive loss was brought about by its yearly administrative expenses. Its statement of changes in equity showed cumulative losses of for the year ended December 31, 2015.

The target buyer is a tax-exempt school duly accredited by the Commission on Higher Education (CHED)."

You now request for confirmation of the following issues:

a) whether the proposed sale transaction of Spencers Landholdings to the tax-exempt school will be exempt from Value-Added Tax; and
b) whether the sale will be subject to final tax of 6% and documentary stamp tax of 1.5% or the property or will be treated as ordinary asset subject to 5% Creditable Withholding Tax and Ordinary Income Tax of 30%?

In reply, please be informed that under Revenue Bulletin No. 01-03, the ruling function is limited to the determination of purely legal issues, as opposed to questions of fact. Accordingly, the Revenue Bulletin declared certain issues or subject matter as "No-Ruling Areas", on which the appropriate office of the Bureau is hereby instructed not to accept any request for rulings covered by said Revenue Bulletin or any amendments thereto.

Section 2 (t) of Revenue Bulletin 01-03 provides:

> *"SECTION 2. List of No-Ruling Areas. — The following shall hereby be construed and identified as "No-Ruling Areas":*
>
> *xxx xxx xxx*
>
> *t) Request for rulings on issue/s or transactions based on hypothetical situations.*
>
> *xxx xxx xxx"*

In view of your representation that the transaction is neither existing nor partially executed, this Office cannot as yet issue a definitive ruling or opinion on the above matter considering that the issue is based on hypothetical situation, which is considered as a "No-Ruling Area" pursuant to Section 2 (t) of Revenue Bulletin 01-03. ***(BIR Ruling No. 264-15 dated July 30, 2015 and BIR Ruling No. 648-12 dated December 07, 2012)***

Be that as it may, we would be glad to assist you should you request for a ruling when these transactions are executed by the concerned parties.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

010130

K-1-RSV
K1-FR-16-1969