REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

Quezon City

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| Tax Code of 1997, as amended. Sections 24(D)(1); & 196 |
| BIR Ruling No. 444-13 |
| 569-2017 |

12-7-2017

**RURAL BANK OF STA. BARBARA (ILOILO), INC.**
Sta. Barbara, Iloilo

Attention: **Harry M. Taningco**
Chairman of the Board

Gentlemen:

This refers to your letter dated March 16, 2015 requesting clarification on whether or not the transfer of Free Patent No. Original Certificate of Title (OCT) No. to the name of the Rural Bank of Sta. Barbara (Iloilo), Inc. is subject to the capital gains tax (CGT) and documentary stamp tax (DST).

The facts, as culled from the records and as represented, are as follows:

1. Dominador Jover, Jr., as Attorney-in-Fact of Elisea M. Vda. De Jover, executed in favor of the Rural Bank of Sta. Barbara (Iloilo), Inc., a real estate mortgage over an untitled parcel of land covered by Tax Declaration No. , with an area of 214,217 square meters, more or less, situated in Bo. Lumbia, Estancia, Iloilo.

2. For failure by the mortgagor to pay the mortgage debt, the above property was foreclosed and sold at a public auction in favor of the Rural Bank of Sta. Barbara (Iloilo), Inc. in satisfaction of the mortgage amount of plus interests, penalties, attorney's fees and other charges, or for a total amount of The Certificate of Sale at Public Auction was registered with the Registry of Deeds for Iloilo City on November 25, 1999 under Entry No.

3. For failure by the mortgagor to redeem the property, a Final Deed of Sale was issued by the Office of the Provincial Sheriff of Iloilo City in favor of the Rural Bank of Sta. Barbara (Iloilo), Inc. on November 28, 2000.

4. The Affidavit of Consolidation of Ownership was registered with the Registry of Deeds on December 1, 2000.

5. It was discovered in September 2014 that a Free Patent No. 587379/OCT No. F-22583 issued on April 26, 1979 covering the same property had actually been issued to Dominador M. Jover, Jr.

The Rural Bank of Sta. Barbara (Iloilo), Inc. now seeks to transfer the Free Patent No. /OCT No. to its name, being the purchaser of said property at the public auction and is now the owner of the property when the mortgagor failed to redeem the same.

In reply, please be informed that Section 2 of *Revenue Regulations (RR) No. 9-2012* dated May 31, 2012 provides for the taxability of foreclosed/auctioned off properties in case of failure by the owner/mortgagor to redeem the same, to wit:

> *"Section 2. Taxability of Owner's/Mortgagor's Failure to Redeem his Foreclosed/Auctioned Off Property within the Applicable Statutory Redemption Period-*
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> *In case of non-redemption of properties sold during involuntary sales, regardless of the type of proceedings and personality of mortgagees/selling persons or entities, the capital gains tax (CGT) imposed under Section 24(D)(1) and 27(D)(5) of the Tax Code in relation to Section 57 of the Tax Code and RR 2-98, as amended, if the property is a capital asset; or the Creditable Withholding Tax (CWT) imposed under Section 57 and RR 2-98, as amended, if the property is an ordinary asset; the value added tax (VAT) imposed under Section 106 of the Tax Code and RR 16-05, as amended; and the documentary stamp tax (DST) imposed under Section 196 of the Tax Code shall become due.*
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> *The buyer of the subject property, who is deemed to have withheld the CGT or CWT due from the sale, shall then file the CGT return and remit the said tax to the Bureau within thirty (30) days from expiration of the applicable statutory redemption period; or file the CWT return and remit the said tax to the Bureau within ten (10) days following the end of the month after expiration of the applicable statutory redemption period.*
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> *If the property sold through involuntary sale is under the circumstances which warrant the imposition of VAT, the said tax must be paid to the Bureau by the VAT-registered owner/mortgagor on or before the 20th or 25th day, whichever is applicable, of the month following the month when the right of redemption prescribes.*

*The DST return shall be filed and the said tax paid to the Bureau within five (5) days after the close of the month after the lapse of the applicable statutory redemption period.*

*The CGT/CWT/VAT & DST shall be based on whichever is higher of the consideration (bid price of the highest bidder) or the fair market value or the zonal value as determined in accordance with Section 6(E) of the Tax Code.* "

Applying the foregoing, the subject property which was sold to the Rural Bank of Sta. Barbara (Iloilo), Inc. during the foreclosure sale, for failure by the mortgagor to redeem, is subject to CGT/CWT/VAT, as the case may be, and DST. Pursuant to RR No. 9-2012, the buyer, Rural Bank of Sta. Barbara (Iloilo), Inc., of the foreclosed property, who is deemed to have withheld the CGT or CWT due from the sale, shall file the appropriate returns and remit the tax to the BIR. Thus, the appropriate taxes due on the said property should have been withheld and remitted to the BIR by the Rural Bank of Sta. Barbara (Iloilo), Inc. in accordance with the provisions of RR No. 09-2012. (*BIR Ruling No. 443-13 dated November 27, 2013*)

Only upon payment of the appropriate taxes due on the property can the purchaser, Rural Bank of Sta. Barbara (Iloilo), Inc., transfer the title of said property to its name. However, if the taxes due thereon had already been paid to the BIR prior to the discovery of the Free Patent No. /OCT No. , then the subsequent transfer of said Free Patent/OCT to the name of the Rural Bank of Sta. Barbara (Iloilo), Inc. shall no longer be subject to the CGT and DST.

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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