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

R.A. 7227
BIR Ruling No. 027-00
#364-2017

8-9-2017

BASES CONVERSION AND DEVELOPMENT AUTHORITY
BCDA Corporate Center, 2/F Bonifacio Technology Center,
31st St. cor. 2nd Ave. Bonifacio Global City,
Taguig City 1634

Attention: **Mr. Vivencio B. Dizon**
President and Chief Executive Officer

Gentlemen:

This refers to your letter dated October 7, 2016 requesting for a confirmatory ruling that the transfers of lands by Bases Conversion Development Authority (BCDA) to the Department of National Defense/Armed Forces of the Philippines-Philippine Air Force (DND/AFP-PAF) are not taxable because *(i)* the transfers are government-to-government transactions involving military lands done to effect, delineate and carve out the 99.91-hectare Philippine Air Force (PAF) Retention Area from the lands comprising the Villamor Air Base (VAB) pursuant to Republic Act (RA) No. 7227; *(ii)* the transfers do not involve consideration, gain or income resulting therefrom; and *(iii)* the PAF Retention Area is a military land intended for military use and has no commercial benefit.

It is represented that RA No. 7227, or the Bases Conversion and Development Act of 1992, created the BCDA with the authority, among others, to own, hold and/or administer certain military reservations, particularly, those portions of Metro Manila Military Camps that may be transferred to it by the President of the Philippines, including the VAB; that approximately 99.91 hectares in VAB where the Presidential Airlift Wing, one squadron of helicopters for the National Capital Region (NCR) and respective security units are located, were exempted from disposition by BCDA and shall be retained by the PAF; that the remaining area in the VAB after segregating the area covered by the 99.91-hectare PAF Retention area was registered under the name of BCDA (which included the VAB Golf Course) while BCDA likewise caused the survey and titling of the 99.91-hectare PAF Retention Area in the name of the Republic of the Philippines.

On July 5, 1997, a Memorandum of Agreement (MOA) was executed by and between the BDCA and the DND-PAF whereby the parties agreed to let the DND-PAF swap an equivalent portion of VAB Golf Course for parcels of land in VAB, which included the then proposed site for the NAIA International Passenger Terminal III.

On March 16, 2005, BCDA and DND-PAF executed another MOA to delineate the 99.91-hectare PAF Retention Area. Pursuant to the MOA, the 99.91-hectare PAF Retention Area has to be reconfigured to delineate the final PAF boundaries in VAB suitable to the respective functions of PAF and BCDA. The PAF retained areas shall be comprised of the VAB Golf Course and the PAF Operational Area.

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Upon delineation, the 99.91 hectare PAF Retention Area covers the parcels of land already registered under TCT No. in the name of BCDA and TCT Nos. and in the name of the Republic of the Philippines. On the ground, said parcels of land cover the VAB Golf Course (56.13 hectares) and PAF Operational Area (43.78 hectares), respectively.

In reply, please be informed that Section 8 (b) of RA No. 7227 provides that "approximately 99.91 hectares in Villamor Air Base for the Presidential Airlift Wing, one squadron of helicopters for the NCR and respective security units" shall be exempt from sale and/or transfer. This area is titled in the name of the Republic of the Philippines.

Considering that the conveyance by BCDA of the subject properties is made to give effect to Section 8 (b) of RA 7227 providing for PAF Retention Area, said conveyance is exempt from the creditable withholding tax imposed under Section 57(B) of the Tax Code of 1997, as implemented by Section 2.57.2(J) of Revenue Regulations No. 2-98, and capital gains tax under Section 27(D)(5) of the Tax Code of 1997, as amended. The conveyance of the subject properties, however, should be made in favor of the Republic of the Philippines under the administration of DND/PAF. For, in that case, it will only be just a return of the property to the original owner, the Republic of the Philippines, to give effect to Section 8 (b) of RA No. 7227.

Moreover, the transfer of the real properties by the BCDA in favor of the Republic of the Philippines under the administration of DND/PAF, particularly the VAB Golf Course registered under TCT No. and the PAF Operational Area registered under TCT Nos. and , having been executed without any monetary consideration and made in accordance with Section 8 (B) of RA 7227 providing for the PAF Retention Area, is not subject to DST under Section 196 of the 1997 Tax Code, as amended. The notarial certification, however, is subject to the DST of fifteen pesos (₱15.00) imposed under Section 188 of the same Code.

This will, therefore, serve as authority for the concerned Revenue District Officer to issue the corresponding Certificate Authorizing Registration (CAR) so that the concerned Register of Deeds may now transfer the subject real properties in the name of the DND/PAF

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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