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
CTRT-334-2021
OCT 13

ANTHONY SUBIDO DE SALES

Las Piñas, Manila

Sir:

This refers to your letter dated 27 February 2012 requesting for exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the reconveyance of a real property pursuant to a *Deed of Reconveyance* executed between **ANTHONY SUBIDO DE SALES** and **MARGARITA DE JESUS ORTEGA** on 10 January 2012.

It is represented that **ANTHONY SUBIDO DE SALES** was the registered owner of a parcel of land situated in Brgy. Pulang Lupa Dos, Barrio of Tungtong, Municipality of Las Piñas under Transfer Certificate of Title (TCT) No. Sometime in 2010, **MARGARITA DE JESUS ORTEGA** promised to purchase the said parcel of land and pay the contract price thereon upon transfer of the title of the property under her name. Thus, pursuant to the representations made by **MARGARITA DE JESUS ORTEGA, ANTHONY SUBIDO DE SALES** transferred ownership of the said property and new TCT was issued bearing TCT No. . However, after the transfer of title in favor **MARGARITA DE JESUS ORTEGA,** she failed to pay the contract price. Hence the parties both agreed to reconvey and transfer the ownership of the property to **ANTHONY SUBIDO DE SALES** by virtue of *Deed of Reconveyance* dated 10 January 2012.

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

"***SEC. 24. Income Tax Rates. –***

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(D) Capital Gain from the Sale of Real Property, –

(1) ***In General.*** *- The provision 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 disposition 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 Tax 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 Tax 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.

The Deed of Absolute Sale dated 29 October 2010 is a perfectly and validly consummated sale, as the title thereto was transferred from the seller to the buyer. There is nothing in the said Deed of Absolute Sale which expressly states that in case the contract has not been paid at the time of the sale, the parties thereto can reconvey the property due to non-payment. Thus, the Deed of Reconveyance dated January 10, 2012, executed by **ANTHONY SUBIDO DE SALES** and **MARGARITA DE JESUS ORTEGA**, in the absence of specific law excluding it from the coverage of Section 24 (D) (1) of the Tax Code of 1997, as amended, is deemed included within the purview of the said provision. Therefore, it shall be subject to the CGT imposed therein.

Moreover, the conveyance being a disposition of real property under section 24 (D)(1) of the Tax Code of 1997, as amended, is likewise subject to the DST imposed in Sections 188 and Section 196 of the Tax 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.