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

Sections 27(D)(5); 39(A)(1), NIRC of 1997, as amended; RR No. 7-2003
BIR Ruling No. 187-2017
460-2017
10-18-2017

PARITY PACKAGING CORPORATION
24 Fortune Avenue, Barangay Fortune
Marikina City

Attention: **Mr. Charles Q. Sia**
President

Gentlemen:

This refers to your letter dated April 5, 2016 requesting for confirmation of your opinion that the parcels of land owned by Parity Packaging Corporation, formerly: Parity Holdings Equities, Inc., ("PPC" for brevity) covered by Transfer Certificates of Title (TCTs) Nos. located in Pasig City, and , both located in Sta. Rosa, Laguna are capital assets, in accordance with the provisions of Revenue Regulations (RR) No. 7-2003.

Background:

PPC, is a domestic corporation registered with the Securities and Exchange Commission (SEC) with SEC Registration No. and its Amended Articles of Incorporation was approved on November 6, 1997.

PPC was organized primarily to manufacture, prepare, buy, sell and generally deal in at wholesale, all kinds of printing, publishing, binding and engraving works and designs, books, papers, catalogues and stationery supplies, printing supplies, pads and stamps; and to carry on a general business in monotyping, linotyping, electrotyping, color-typing, stencil press service, typesetting, composition, dies and advertising services; to engage in and carry on the service as commercial printer, bookbinders, engravers, photographic printers, stereotypers, electrotypes, lithographers, and to undertake a general printing, engraving, lithographing business under specific contract or job orders from clientele.

PPC's printing activity started to decline in 2010 when one of its major clients ceased its manufacturing business. In 2011, it eventually stopped its printing operation. Currently, PPC's revenue comes from dividends.

PPC owns real properties located in Pasig City and Sta. Rosa, Laguna. These are parcels of land which were never used in business and had remained idle since its acquisition. No improvement was ever introduced on these properties. Being so, these are treated in the books of accounts and are reflected in the audited financial statement as investment properties of PPC.

The details of the afore-mentioned properties are described, as follows:

TCTs Nos.	Tax Declaration No.	Area in sq. m.	Location	Date of Acquisition
		66,536	Pasig City	September 8, 2005
		175,839	Sta. Rosa, Laguna	March 28, 1990
		162,408	Sta. Rosa, Laguna	March 28, 1990

In fact, on February 27, 2017, PPC paid the City Treasurer's Office of Pasig City amounting to under Official Receipt (OR) No. , representing idle land tax for the non-use and non-improvement of the property.

In reply, please be informed that the term "capital asset" as negatively defined in Section 39(A)(1) of the National Internal Revenue Code of 1997, as amended, means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business, of a character which is subject to the allowance for depreciation provided in Subsection (F) of Section 34 of the National Internal Revenue Code of 1997, as amended, or real property used in trade or business of the taxpayer.

Moreover, RR No. 7-2003, particularly Section 3(e), provides that:

> "*SECTION 3. Guidelines in determining whether a particular real property is a capital asset or ordinary asset. –*
>
> *xxx xxx xxx*
>
> *e. <u>Treatment of abandoned and idle real properties.</u> Real properties formerly forming part of the stock in trade of a taxpayer engaged in the real estate business, or formerly being used in the trade or business of a taxpayer engaged or not engaged in the real estate business, which were later on abandoned and became idle, shall continue to be treated as ordinary assets. Real property initially acquired by a taxpayer engaged in the real estate business shall not result in its conversion into a capital asset even if the same is subsequently abandoned or becomes idle.*
>
> *Provided however, that properties classified as ordinary assets for being used in business by* ***a taxpayer engaged in business other than real estate business*** *as defined in Section 2 (g) hereof are automatically converted into capital assets upon showing of proof that the same have not been used for more than two (2) years prior to the consummation of the taxable transactions involving said properties."* (Emphasis and underscoring supplied)

In applying the above provision of RR No. 7-2003, real properties owned by taxpayers not engaged in the real estate business or referring to those persons other than real estate dealers, real estate developers and/or real estate lessors shall, upon showing of proof that the same have not been used in business for more than two (2) years prior to the consummation of the taxable transactions involving the said real properties, and though classified as ordinary assets, be automatically converted into capital assets.

In view of the foregoing, and considering that PPC is a taxpayer not engaged in the real estate business, being not a real estate dealer, developer or lessor and whose primary purpose is to carry on the business involving printing activities; and that the aforementioned properties had already been idle and vacant since 2011, treated in the books of accounts and are reflected in the audited financial statement as investment properties and had not been used in the ordinary course of trade or business, it is the considered opinion of this Office that the real properties described above, having complied with the conditions under RR No. 7-2003, are now classified as capital assets of Parity Packaging Corporation. ***(BIR Ruling No. 187-2017 dated April 17, 2017)***

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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