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

Secs. 24(D)(1), 98, 105, & 196. Tax Code, as amended
BIR Ruling No. 546-19
OT-346-2022
JUN 30 2022

REYES TACANDONG & CO.
BDO Towers Valero
8741 Paseo de Roxas
Makati City 1226

Attention: **<u>Atty. Sheryl Ann D. Tizon-Lalucis</u>**
Tax Services

Gentlemen:

This refers to your request on behalf of your clients, **SPOUSES MERRICK G. CHUA and MAUREEN Y. CHUA** ("Sps. Chua") for a ruling that the conveyance of properties, as a result of the termination of a trust agreement, by BDO Private Bank, Inc. ("BDOPB") to Sps. Chua, is exempt from capital gains tax (CGT), creditable withholding tax (CWT), value-added tax (VAT), donor's tax and documentary stamp tax (DST).

Background

1. Sps. Chua are both Filipinos, of legal age, and with office address at , with Taxpayer Identification Numbers (TIN) and , respectively.

2. BDOPB is a domestic stock corporation duly organized and existing under the laws of the Republic of the Philippines with registered address at BDO Equitable Tower, 8751 Paseo de Roxas, Makati City, Philippines. It is registered with the Securities and Exchange Commission (SEC) with Company Registration No. The primary purpose of BDOPB is as follows:

> "To operate under a commercial banking authority, as well as to engage in and carry on the business of a trust company, and to have and exercise all powers, rights, privileges and attributes of a commercial bank and a trust company, in addition to the general powers incident to corporations."

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3. On March 2[illegible], 2007, Sps. Chua ("Trustors") and BDOPB ("Trustee") entered into a Trust Agreement whereby Sps. Chua conveyed to BDOPB an amount in cash, in trust, for themselves and reserving unto themselves the right to revoke, amend, annul, and cancel the trust created thereby.

4. The Trust Account was originally designated as Trust Account No. . On May 26, 2008, the Bangko Sentral ng Pilipinas issued Circular No. 609, series of 2008, whereby all trust institutions are required to revise and reclassify existing trust and/or fiduciary accounts to align said accounts with the Philippine Financial Reporting Standards, Accounting Standards, and the Financial Reporting Package (FRP). In compliance with this directive, beginning January 1, 2009, BDOPB renamed Trust Account No. as the FRP – Compliant Trust Account No.

5. Pursuant to the terms of the Trust Agreement, BDOPB purchased, with the funds transferred to it in trust by Sps. Chua, the following properties (the "Trust Properties"):

   a. Real property containing an area of six hundred twenty-eight (628) square meters, with improvement, situated in Quezon City, covered by Transfer Certificate of Title (TCT) No. and registered in the name of "BDO Private Bank, Inc. as TRUSTEE for T.A. No. - a commercial banking corp. duly organized and existing under the laws of the Phils.";

   b. Real property containing an area of six hundred (600) square meters, with improvement, situated in Quezon City, covered by TCT No. and registered in the name of "BDO Private Bank, Inc. – Wealth Advisory & Trust Group, in trust for the trustor named in the Trust Agreement under BDO Trust Account No. "; and

   c. Real property containing an area of seven hundred twenty (720) square meters more or less, situated in Calamba City, covered by TCT No. and registered in the name of "BDO Private Bank, Inc. as Trustee for BDO PB TA No. (the Trust Fund')".

6. The taxes due on the acquisition of the Trust Properties were all paid, and the respective Certificates Authorizing Registration were issued by the Revenue District Office (RDO) No. 40-Cubao, Quezon City and RDO No. 56-Calamba City, respectively.

7. BDOPB being the trustee and the legal title holder, the Trust Properties were registered in the name of BDOPB in trust for Sps. Chua

8. Sps. Chua, being the beneficial owners, have decided that they already want to transfer and consolidate the titles on the Trust Properties in their names. Thus, on April 6, 2021, Sps. Chua and BDOPB executed a Deed of Conveyance over the Trust Properties

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which provides:

> "WHEREAS, to give full effect to the Trustors' intention, BDOPB and the Trustors have agreed to execute this Deed of Conveyance so that the legal and beneficial titles will be consolidated in the Trustors' names. There was no monetary or valuable consideration for this consolidation of titles.
>
> NOW THEREFORE, premises considered, the TRANSFEROR, acting in its capacity as Trustee of the revocable trust on behalf of Spouses Merrick G. Chua and Maureen Y. Chua, who are thus the real legal and beneficial owners thereof, hereby transfers and conveys unto Spouses Merrick G. Chua and Maureen Y. Chua, in full ownership to them, the Properties covered by Transfer Certificate of Title Numbers and issued by the Registry of Deeds for Quezon City, and Transfer Certificate of Title Number issued by the Registry of Deeds for Calamba."

In reply thereto, please be informed that the transfer of title over the Trust Properties by the Trustee, BDOPB in favor of the Trustors, Sps. Chua, who are the actual owners thereof is not subject to CGT imposed under Section 24 (D)(1) of the National Internal Revenue Code of 1997 (Tax Code), as amended, nor to the CWT prescribed in Revenue Regulations (RR) No. 2-98, as amended, considering that the transfer and reconveyance is not motivated by a valuable consideration and merely acknowledges, confirms and consolidates the legal title and actual ownership over the Trust Properties in the name of the Trustors.

Furthermore, the conveyance by the Trustee in favor of the Trustors of the Trust Properties which the former acquired by virtue of the Trust Agreement is not to be treated as another transfer separate and distinct from the sale between the original owner and the Trustee. The conveyance is merely to be treated as a continuation and confirmation of title in favor of the ultimate and real beneficiaries of the Trust Properties.

Likewise, the transfer of the Trust Properties to the Trustees is not subject to the 12% VAT because the aforesaid properties are not held primarily for sale to customers or for lease in the ordinary course of trade or business.

The transfer and reconveyance of the Trust Properties to the Trustors without any monetary consideration is not subject to gift tax imposed under Section 98 of the Tax Code, as amended, since there is no donative intent on the part of the Trustee.

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The Deed of Conveyance executed to terminate the trust relationship between the Trustors and Trustee, and the consolidation of the legal title and actual ownership over the Subject Properties is a transfer and reconveyance without monetary consideration, and as such not subject to the DST imposed under Section 196 of the same Tax Code, as amended. However, the notarial acknowledgment to such Deed is subject to the DST of P30.00[1] under Section 188 of the Tax Code, as amended.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained 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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[1] The new rate was used since the transaction took place after the effectivity of R.A. No. 10963 (TRAIN Law).