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

Secs. 24 (D) (1) and 27 (D) (5); RR 9-2012
BIR Ruling No. 111-2013
315-2018
3-5-2018

HUBERT IVAN C. CHAN
2710 Taft Ave., Pasay City

Sir:

This refers to your letter dated September 4, 2015, requesting for a ruling on how many taxable transfers there are in a foreclosure sale of real property.

Documents submitted disclosed that Chyrrl Julian Pulido, (married to Marlon Llmas Pulido) (the Owner), is the registered owner of a Condominium Unit (Unit 19D, The Residences at Greenbelt Manila Tower, Special 1-bedroom type with an approximate area of 80 sq.m. located in the 19th floor, with one (1) appurtenant parking slot 3F118) covered by Condominium Certificates of Title (CCT) No. that on November 11, 2008, the Owner obtained a loan from the BPI family Savings Bank, Inc. secured by a mortgage over the Subject Property; that upon the Owners' default, BPI family Savings Bank, Inc. caused the extra-judicial foreclosure of the mortgage on the Subject Property; that during the public auction on July 23, 2014, Hubert Ivan C. Chan emerged as the highest bidder for the total sum of ; that the sheriff's certificate of sale dated August 4, 2014 was issued to Hubert Ivan C. Chan; that on August 13, 2014, the certificate of sale was duly annotated on the CCT No. with Entry No. ; and that the one (1) year redemption period has lapsed.

In reply, please be informed that Sections 24 (D) (1) and 27 (D) (5) of the Tax Code of 1997 provides, viz:

"*Section 24. Income Tax Rates.-*

(D) Capital Gains from Sale of Real Property. —

(1) In General. — The provisions 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: . . . ."

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SEC. 27. Rates of Income tax on Domestic Corporations. –

xxx xxx xxx

(D) Rates of Tax on Certain Passive Incomes. –

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(5) Capital Gains Realized from the Sale, Exchange or Disposition of Lands and/or Buildings. - A final tax of six percent (6%) is hereby imposed on the gain presumed to have been realized on the sale, exchange or disposition of lands and/or buildings which are not actually used in the business of a corporation and are treated as capital assets, based on the gross selling price of fair market value as determined in accordance with Section 6(E) of this Code, whichever is higher, of such lands and/or buildings."

Moreover, Section 2 of Revenue Regulations No. 9-2012[1], provides:

Section 2. Taxability of Owner's/Mortgagor's Failure to Redeem his Foreclosed/Auctioned Off Property/ies within the Applicable Statutory Redemption Period. - In case of non-redemption of properties sold during involuntary sales, regardless of the type of proceedings and personality of mortagagees/selling persons or entities, the Capital Gains Tax (CGT) imposed under Sections 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 16-2005, as amended; and the Documentary Stamp Tax (DST) imposed under Section 196 of the Tax Code shall become due.

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 the 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, provided that, for taxes withheld in December, the CWT return shall be filed and the taxes remitted to Bureau on or before January 15 of the following year.

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 day 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 and DST shall be based on whichever is higher of the consideration (bid price of the highest bidder) or the fair market

[1] Implementing Sections 24(D)(1), 57, 106 and 196 of the National Internal Revenue Code of 1997 on non-redemption of properties sold during involuntary sales.

> *value or the zonal value as determined in accordance with Section 6(E) of the Tax Code.*

The subject sale effected through public auction, being a disposition of real property under Section 24(D)(1) of the Tax Code of 1997 enumerated above, is subject to the capital gains tax (CGT) of 6% on the capital gains presumed to have been realized from the said conveyance of real property considered as capital assets. It is likewise subject to documentary stamp tax (DST) imposed under Sections 196 of the Tax Code of 1997.

Considering that the conveyance of the property is caused by the public auction sale arising from the foreclosure of the subject property, there will be only one taxable transaction, that is, from the Owner to the highest bidder. Since Hubert Ivan C. Chan is the highest bidder, the transfer of the title to the property in his name from the Owner could be effected only after the payment of the 6% capital gains tax and documentary stamp tax 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 of 1997. Hubert Ivan C. Chan should present the Certificate of Sale to the proper Revenue District Officer for purposes of the issuance of the Certificate Authorizing Registration (CAR), a requirement for the transfer of title in the Office of the Register of Deeds. (BIR Ruling No. 111-13 dated March 22, 2013)

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 as represented are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

K-1-JRC

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