DETERMINATION OF THE TAX BASE OF SALES, EXCHANGE OR ANY DISPOSITION OR CONVEYANCE OF REAL PROPERTY FOR DOCUMENTARY STAMP TAX PURPOSES

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In order to rationalize the computation of documentary stamp tax and to effect uniformity in all transactions involving the sale, exchange or any disposition of real property, the following guidelines are hereby promulgated.

In all cases involving sale, exchange, or any disposition of real property, the tax base for documentary stamp tax purposes shall be the same as the tax base used in the computation of the capital gains tax which means, gross selling price, fair market value, or zonal value of the real property, whichever is higher, except in the following instances, where actual consideration appearing in the Deed of Sale shall be an acceptable tax base in the computation of not only the capital gains tax but also of the documentary stamp tax, viz:

1. Sale of residential lots financed by the National Home Mortgage Finance Corporation (NHMFC) under its Community Mortgage Project, in favor of poor tenant-beneficiaries. (Memorandum of the Commissioner to the RDO of Revenue District No. 25, South Manila dated March 20, 1991; BIR Ruling No. 001-91)

2. Sale of land by the National Housing Authority (NHA) as mandated under E.O. No. 90, in favor of its target clientele/beneficiaries who belong to the lowest 30-50% of the income bracket. (BIR Ruling No. 232-90)

3. Sale of real property affected through public bidding, e.g., judicial Sale; extrajudicial foreclosure sale, where both the 5% capital gains tax and the documentary stamp tax were computed based on the highest or winning bid price. (BIR Ruling Nos. 101-89; 118-91)

4. Negotiated purchases and/or sale of land by a government agency or government-owned corporation. (BIR Ruling Nos. 105-91; 001-91)

5. When the State or any of its instrumentalities in the exercise of its power of eminent domain, acquires through expropriation proceedings, private real property for public use upon payment of "just compensation" to the owner. Both capital gains tax and documentary stamp tax shall be computed based on said "just compensation" as actual consideration.

All rulings, Revenue Memorandum Circulars, Revenue Audit Memorandum Orders and Revenue Memorandum Orders or portions thereof which are inconsistent with the provisions of this Order are hereby repealed/revoked.

This Order shall take effect immediately.

Adopted: 11 Nov. 1991

(SGD.) JOSE U. ONG
Commissioner

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