MEMORANDUM OF AGREEMENT BETWEEN THE LAND REGISTRATION AUTHORITY (LRA) AND THE BUREAU OF INTERNAL REVENUE (BIR) RELATIVE TO REGISTRATION OF INSTRUMENTS INVOLVING REAL PROPERTIES ...

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For the Information of all revenue officials and employees and others concerned, quoted hereunder is the Memorandum of Agreement executed by and between the LRA and the BIR, dated December 20, 1993:

"MEMORANDUM OF AGREEMENT"

KNOW ALL MEN BY THESE PRESENTS:

This AGREEMENT made and entered into by and between:

The BUREAU OF INTERNAL REVENUE (BIR), represented herein by the COMMISSIONER, LIWAYWAY VINZONS-CHATO, with principal office at the BIR Building, Diliman, Quezon City;

and

The LAND REGISTRATION AUTHORITY (LRA), represented herein by the ADMINISTRATOR, REYNALDO Y. MAULIT with principal office at LRA Building, Diliman, Quezon City;

WITNESSETH:

WHEREAS, Executive Order No. 53, series of 1993 directs all government agencies to provide the BIR with the necessary information to help increase tax collections;

WHEREAS, the taxpayer identification number (TIN) is a vital information for tracing a person's taxable transactions under a computerized system of tax administration;

WHEREAS, under Executive Order No. 52, series of 1993, the BIR shall require that the TIN of persons who are parties to the real property transactions be reflected in the documents to be registered with the Registry of Deeds;

WHEREAS, under the last paragraph of Section 49 (a) (4) of the National Internal Revenue Code (NIRC), as amended by Executive Order No. 37, no registration of any document transferring real property shall be effected by the Register of Deeds unless the Commissioner of Internal Revenue or his duly authorized representative has certified that such transfer has been reported and the capital gains tax herein imposed, if any, has been paid;

WHEREAS, under Section 88 of the NIRC, Registers of Deeds shall not register in the registry of property any documents transferring real property or real rights therein or any chattel mortgage, by way of gifts inter vivos or mortis causa, legacy or inheritance, unless a certification from the Commissioner that the tax fixed in Title III (Estate and Gift taxes) of the NIRC and actually due thereon had been paid;

WHEREAS, Deeds of Assignment of real properties in exchange for shares of stock of a corporation pursuant to

paragraphs (c) (2) and (6) (c) of Section 34 of the NIRC as amended and as amplified by Revenue Memorandum Order No. 26-92, shall not be registered with the Register of Deeds to effect transfer of Certificate of Title of real property to the transferee-corporation, except upon proper tax clearance/ruling issued by the BIR as to the deferment of recognition of gain or less on the part of the transferors;

WHEREAS, the Certificate of Registration of document involving donation or transmission of estate of decedents, or the Certificate Authorizing Registration (CAR), in the case of deed of sale, exchange or other disposition of real property located in the Philippines, including pacto de retro sales and other forms of conditional sales, (i.e. judicial and extra-judicial foreclosure sales), by individual or corporation is required before such registration can be effected with the Register of Deeds pursuant to existing Revenue Regulations.

WHEREAS, Deeds of Assignment/Transfer Exchange or other disposition of real property held by a Trustee shall not be registered by the Register of Deeds except upon proper tax clearance issued by the BIR;

WHEREAS, under Section 50(b) of the NIRC as implemented by Revenue Regulations No. 6-85, as amended by Revenue Regulations Nos. 12-89 and 1-90, sale, exchange or other disposition of real property whether classified as ordinary or capital assets located in the Philippines by corporations and sale, exchange or other disposition of real property classified as ordinary assets located in the Philippines by individuals including estate or trust are subject to the creditable expanded withholding tax;

WHEREAS, under Revenue Regulations No. 9-93 implementing Section 20 of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, a lien on the Certificate of Title to be issued covering raw land sold and/or lands donated qualified to be exempt from capital gains tax or donor's tax, as certified by the Housing and Land Use Regulatory Board (HLURB), shall be annotated by the Register of Deeds having jurisdiction over the property that the lands are to be used for socialized housing project.

WHEREAS, in the collection enforcement of delinquent taxes, warrants of levy upon real property and interest in or rights to real property of delinquent taxpayer and written notice of tax lien are issued by the BIR pursuant to Sections 205 and 213 respectively of the NIRC and mailed or served upon the Register of Deeds of the province or city where properties of delinquent taxpayers are located and upon the taxpayer or in his absence from the Philippines, upon his agent;

WHEREAS, under Section 220 of the NIRC, the amount of internal revenue tax due from any person, corporation, partnership, joint account (cuenta en participacion) association or insurance company who neglects or refuses to pay the same after demand, shall be a lien in favor of the Government of the Philippines from the time the assessment was made by the Commissioner until paid, with interest, penalties and costs that may accrue in addition thereto upon all property and rights to property belonging to the taxpayer;

WHEREAS, the Land Registration Authority (LRA) as the principal agency charged with the functions of registering titles and deeds under the Torrens system in accordance with the provisions of Pres. Decree No. 1529 is tasked with the supervision and control over all Registers of Deeds and their personnel particularly for the purpose of instituting and maintaining an orderly system of registration;

WHEREAS, as a result of increasing public demand for expeditious registration processes with the various registries and in order to accelerate the delivery of service to the public, the LRA proposes the creation of a pilot project on one-stop transaction with the BIR to help facilitate the registration of instruments involving real property and other transactions such as the transmission of estates and donations;

NOW, THEREFORE, in order to ensure the prompt assessment and collection of the correct internal revenue taxes as well as facilitate the registration of transactions involving real properties, the LRA and the BIR have

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mutually agreed to coordinate their efforts by adopting the following procedures:

1. The RDO in the District Office shall:

a)

Furnish the Register of Deeds, in advance, the serial numbers of all CARs accountable forms assigned to them.

b)

Furnish the Register of Deeds within their Region on a monthly basis, a summary list of information of CARs issued, the serial numbers; date issued, name of taxpayer/vendor, his/her TIN, amount of capital gains tax/creditable withholding tax, donor's/estate taxes and documentary stamp tax paid; Official Receipt and/or Batch Control Sheet (BCS) machine validation number in the return filed (Annex "A")*;

2. The Commissioner or his/her authorized representative shall file with the Register of Deeds notice of tax/levy issued on real properties of delinquent taxpayers;

3. The BIR shall furnish LRA with pertinent copies of Revenue Regulations, Revenue Memorandum Orders, and Revenue Memorandum Circulars and other revenue issuances relative to transfers affecting real properties;

II

The Administrator of LRA through his duly authorized representatives particularly the Register of Deeds of different provinces and cities shall:

1. Register documents such as deed of settlement of estate, deed of donation, deed of sale, exchange or other disposition of real property, including pacto de retro sale and other conditional sales, (i.e. judicial and extra-judicial foreclosure sales) only upon presentation of the Certificate Authorizing Registration (CAR) or Certificate of Tax Clearance or Exemption issued by duly authorized revenue officials, regardless of the period/year such instruments were executed pursuant to pertinent BIR Rules and Regulations and the TIN and CAR Serial Number indicated therein.

2. Annotate at the back of the Transfer Certificate of Title to be issued to the transferee corporation of the properties involved in the exchange transaction under Section 34 (c)(2) and (6)(c) of the NIRC and in compliance with the condition stated in the pertinent BIR ruling, the following Memorandum:

> "The acquisition of the property described in this title is by virtue of a tax deferred transaction pursuant to Sec. 34(c)(2) and (6)(c) of the NIRC per Deed of Exchange/Assignment dated _____, the historical cost or adjusted basis of which is determined in the amount of _____"

provided however, that the condition for the annotation thereof is specified in the deed of exchange or transfer or stipulated and agreed upon by the parties in a separate document.

3. Annotate at the back of the Transfer Certificate of Title to be issued covering new lands sold or lands donated in favor of the vendee/donee corporation or association, a lien that the lands are to be used exclusively for socialized housing project in accordance with Sec. 20 of R.A. 7279.

4. Assist the BIR in identifying the real properties of delinquent taxpayers for proper entry and annotation of the notice of tax lien and/or levy issued on the certificate of title.

5. Register the Notice of Tax Lien filed by the Commissioner or his/her authorized representative with the Office of the Register of Deeds of the province or city where the property is situated pursuant to the provision of Section 220 of the Tax Code by means of annotation in the certificate of title or in the registration book of unregistered

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lands specified in the notice of tax lien in favor of the Government pursuant to Section 113 of Presidential Decree 1529.

6. Provide the BIR with such other information of uncovered transactions relating to transfers of real properties effected through misrepresentation and use of fake/spurious documents.

7. Allow the BIR authorized officer to have an access the records of the Register of Deeds upon presentation of duly approved requests therefor by the Commissioner, Deputy Commissioner, Assistant Commissioner, Regional Director or Revenue District Officer.

8. Disseminate the revenue issuances, regulations, revenue memorandum orders pertinent to transfer of real property or rights therein to the Registers of Deeds for their information and guidance.

III

The LRA and the BIR shall create an inter-agency committee to oversee and monitor the proper implementation of this Memorandum of Agreement within ninety (90) days upon signing of this Agreement.

IV

The LRA and the BIR shall constitute a "one-stop-shop" initially as pilot project in the Registry of Deeds of Quezon City to assist and facilitate the registration of instruments involving sales, exchange or other disposition of real property, including foreclosure sales, transmissions of estate and donations.

V

The provisions of the Memorandum of Agreement entered into by and between LRA and BIR on June 2, 1987 insofar as they are not inconsistent with this Memorandum of Agreement shall continue to have force and effect and be implemented.

Adopted: 27 Dec. 1993

(Sgd.) REYNALDO Y. MAULIT

(Sgd.) LIWAYWAY VINZONS-CHATO

Administrator

Commissioner

Land Registration Authority

Bureau of Internal Revenue

(Sgd.) RICARDO F. ARANDILLA

(Sgd.) RENE G. BAÑEZ

Deputy Administrator

Deputy Commissioner

Land Registration Authority

Bureau of Internal Revenue

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