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REVENUE REGULATIONS AMENDING PERTINENT PORTIONS OF REVENUE REGULATIONS NOS. 11-96 AND 2-98 RELATIVE TO THE TAX TREATMENT ON THE SALE, TRANSFER OR EXCHANGE OF REAL PROPERTY AND F...

BIR REGULATIONS NO. 8-98, August 25, 1998

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SECTION 1. Scope — Pursuant to Section 244 of the Tax Code of 1997, in relation to Sections 24(D)(1) and 27(D)(5) of the same Code, these Regulations are hereby promulgated amending pertinent portions of Revenue Regulations Nos. 11-96 and 2-98 and other relevant regulations and issuances regarding the tax treatment on the sale, transfer or exchange of real property and amending for this purpose the date and venue for the filing of capital gains tax returns and payment of taxes due on transactions involving real properties classified as capital assets and likewise amending the venue for the filing and payment of creditable withholding tax due on transactions involving real properties classified as ordinary assets.

SECTION 2. Final Tax on Sales, Exchanges or Transfers of Real Properties Classified as Capital Assets — The rate of six percent (6%) shall be imposed on capital gains presumed to have been realized by the seller from the sale, exchange or other disposition of real properties located in the Philippines, classified as capital assets, including pacto de retro sales and other forms of conditional sales based on the gross selling price or fair market value as determined in accordance with Section 6(E) of the Code (i.e., the authority of the Commissioner to prescribe the real property values), whichever is higher.

In case of disposition of real property made by individuals to the government or to any of its political subdivisions or agencies or to government-owned or -controlled-corporations, the tax to be imposed shall be determined either under the normal income tax rate imposed in Section 24(A) or under a final capital gains tax of six percent (6%) imposed under Section 24(D)(1), both of the Tax Code of 1997, at the option of the taxpayer.

SECTION 3. Time and Place of Payment of Capital Gains Tax — Within thirty (30) days following each sale or disposition, the Capital Gains Tax Return shall be filed by the seller and payment made to an Authorized Agent Bank (AAB) located within the Revenue District Office (RDO) having jurisdiction over the place where the property being transferred is located.

SECTION 4. Creditable Withholding Tax on the Sale, Transfer or Exchange of Real Property Classified as Ordinary Asset — A creditable withholding tax based on the gross selling price/total amount of consideration or the fair market value determined in accordance with Section 6(E) of the Code, whichever is higher, paid to the seller/owner for the sale, transfer or exchange of real property, other than capital asset, shall be imposed upon the withholding agent/buyer, in accordance with the following schedule:

> A. Upon the following values of real property, where the seller/transferor is habitually engaged in the real estate business as per proof of registration with the HLURB or HUDCC:
>
> With a selling price of Five hundred thousand pesos (P 500,000.00) or less 1.5%

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With a selling price of more than Five hundred thousand pesos (P 500,000.00) but not more than Two million pesos (P 2,000,000.00) 3.0%

With a selling price of more than Two million pesos (P 2,000,000.00) 5.0%

B. Where the seller/transferor is not habitually engaged in the real estate business 7.5%

C. Where the seller/transferor is exempt from creditable withholding tax in accordance with Section 2.57.5 of Revenue Regulations No. 2-98 Exempt

SECTION 5. Time and Place of Payment of Creditable Withholding Tax — Creditable withholding taxes deducted and withheld by the withholding agent/buyer on the sale, transfer or exchange of real property classified as ordinary asset, shall be paid by the withholding agent/buyer upon filing of the return with the Authorized Agent Bank (AAB) located within the Revenue District Office (RDO) having jurisdiction over the place where the property being transferred is located within ten (10) days following the end of the month in which the transaction occurred. Provided, however, that taxes withheld in December shall be filed on or before January 25 of the following year.

SECTION 6. Tax Clearance Certificate — Upon presentation of the Capital Gains Tax Return or Creditable Withholding Tax Return with a bank validation evidencing full payment of the capital gains tax or the creditable withholding tax due on the sale, transfer, barter, exchange or other disposition of real property classified as capital or ordinary asset, as the case may be, the Revenue District Officer (RDO) of the revenue district where the property being transferred is located shall issue the corresponding Tax Clearance (TCL) or Certificate Authorizing Registration (CAR) for the registration of the real property in favor of the transferee.

SECTION 7. Repealing Clause — The provisions of any revenue regulations, revenue memorandum order, revenue memorandum circular or any other issuance of the Bureau of Internal Revenue inconsistent with these Regulations are hereby repealed, amended, or modified accordingly.

SECTION 8. Effectivity Clause — These Regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

Adopted: 25 Aug. 1998

(SGD.) EDGARDO B. ESPIRITU
Secretary of Finance

RECOMMENDING APPROVAL:

(SGD.) BEETHOVEN L. RUALO
Commissioner of Internal Revenue

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