



Republic of the Philippines  
**DEPARTMENT OF FINANCE**

Roxas Boulevard Corner Pablo Ocampo, Sr. Street  
Manila 1004

DOF OPINION NO. 011.2020

**ATTY. ESTRELLA V. MARTINEZ**

27 Pilar Hidalgo-Lim Street  
Tierra Verde 2, Tandang Sora  
Quezon City

**SUBJECT: Request for Review of Bureau of Internal Revenue Ruling  
No. OT-019-2020**

Dear **Atty. Martinez:**

This refers to your letter requesting for a review of BIR Ruling No. OT-019-2020 dated 11 August 2020 ("Request for Review of BIR Ruling"), which denied the request of your client, Mr. Carlos T. Michael ("Carlos"), for exemption from payment of Capital Gains Tax ("CGT") and Documentary Stamp Tax ("DST") on the transfer of a real property to Carlos by 924 Universal Trading Corporation by virtue of a Rescission of Deed of Absolute Sale, which was received by this Department on 19 August 2020.

The BIR denied the request of Carlos on the premise that the rescission of the Deed of Sale was a buy-back of the real property which is subject to appropriate taxes. On the other hand, it is your position, as stated in your Request for Review of BIR Ruling, that the rescission of the Deed of Absolute Sale nullified the sale transaction, thus, reconveyance of the real property is not subject to CGT and DST.

*We find it unnecessary, however, to delve into the substantive issues of your Request for Review of the BIR Ruling and dismiss it accordingly in view of its belated filing with this Office.*

A handwritten signature in black ink, appearing to be the initials "EVM", is located at the bottom left of the page.


Pursuant to DOF Department Order No. 007-02,<sup>1</sup> DOF Department Order No. 023-01,<sup>2</sup> and Revenue Administrative Order (RAO) No. 03-01,<sup>3</sup> a taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, **within thirty (30) days from the date of receipt of such ruling**, seek its review by the Secretary of Finance.

It should be noted that based on the records of BIR, BIR Ruling No. OT-019-2020 was received by Carlos on **13 February 2020**. Instead of filing a request for review with the Department of Finance within the reglementary period, Carlos, through counsel, filed a protest letter dated 19 February 2020, assailing the decision in BIR Ruling No. OT-019-2020, which was received by the BIR on 27 February 2020. It was only on **19 August 2020** that the Request for Review of BIR Ruling No. OT-019-2020 was received by the DOF which is beyond the thirty-day reglementary period allowed by the rules for the taxpayer to seek review of the ruling by the DOF. Since the Request for Review of BIR Ruling was filed out of time, this Office has not acquired jurisdiction over the case. Perforce, the subject Request for Review of BIR Ruling must be denied.

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

Thank you.

Very Truly Yours,

  
**CARLOS G. DOMINGUZ**  
Secretary of Finance  
SEP 23 2020



CC **Hon. Caesar R. Dulay**  
Commissioner  
Bureau of Internal Revenue  
BIR National Office Building  
BIR Road, Diliman, Quezon City

<sup>1</sup> Dated 7 May 2002.

<sup>2</sup> Dated 5 October 2001.

<sup>3</sup> Dated 22 October 2001.