

[BIR REVENUE MEMORANDUM CIRCULAR NO. 2-94, December 27, 1993]

MEMORANDUM OF AGREEMENT BETWEEN THE LAND REGISTRATION AUTHORITY (LRA) AND THE BUREAU OF INTERNAL REVENUE (BIR) RELATIVE TO REGISTRATION OF INSTRUMENTS INVOLVING REAL PROPERTIES OR REAL RIGHTS THEREIN OR ANY CHATTEL MORTGAGE, AND NOTICE OF LIEN ON PROPERTIES OF DELINQUENT TAXPAYERS

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 loss 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;