

**[ BIR REVENUE MEMORANDUM ORDER NO. 18-  
2009, April 26, 2009 ]**

**AN ORDER DISPENSING THE NECESSITY OF SECURING A RULING FROM THE BUREAU OF INTERNAL REVENUE AS A REQUISITE FOR THE ISSUANCE OF CAR/TCL ON THE CONVEYANCE OF LAND AND COMMON AREAS BY THE REAL ESTATE DEVELOPER TO THE CONDOMINIUM CORPORATION ORGANIZED IN ACCORDANCE WITH THE PROVISIONS OF REPUBLIC ACT NO. 4726 FOR THE PURPOSE OF HOLDING TITLE TO AND MANAGING AND MAINTAINING THE LAND AND THE COMMON AREAS FOR THE BENEFIT OF THE CONDOMINIUM UNIT OWNERS, AS WELL AS PRESCRIBING THE POLICIES AND GUIDELINES TO BE OBSERVED IN THE ISSUANCE OF CAR/TCL IN RESPECT THERETO**

**I. BACKGROUND.**

Based on existing policies, before any Certificate Authorizing Registration (CAR) / Tax Clearance (TCL) can be issued by the concerned RDO allowing the transfer of the land and the common areas from the real estate developer to the Condominium Corporation established pursuant to the provisions of Republic Act No. 4726, otherwise known as the Condominium Act, there is first the need to secure a prior BIR Ruling confirming the tax exemption of the transfer.

This additional requirement of securing a prior ruling, notwithstanding the fact that Bureau has already given its opinion on the tax consequences of this transfer, has only protracted the process by which CARs/TCLs are issued, thereby hampering the ability of the Bureau to provide an expedient service to the public.

**II. OBJECTIVE. -** This Order is thus issued to :

1. Improve taxpayer service by further streamlining and enhancing the process by shortening the period within which to secure the CAR/TCL with respect to such type of transfer of real property; and
2. Provide the guidelines and procedures to be observed in the issuance of CAR/TCL with respect thereto.

**III. POLICIES AND GUIDELINES. -**

1. The Bureau hereby dispenses with the requirement of securing a prior ruling before any Certificate Authorizing Registration (CAR) / Tax Clearance (TCL) can be issued by the concerned RDO allowing the transfer of the land and the common areas from the real estate developer to the Condominium Corporation established pursuant to the provisions of Republic Act No. 4726, otherwise known as the Condominium Act;

2. The taxpayer, however, may at his option still secure a prior ruling from the Bureau to confirm the tax-exempt status of such transfer;

3. The concerned Revenue District Officer (RDO), upon receipt of all the documents as enumerated in item (IV) hereunder, can proceed with the issuance of the CAR/TCL relative to the conveyance of the land and the common areas made by the real estate developer to the Condominium Corporation, provided, that the RDO is assured that the facts and the circumstances surrounding such transfer are analogous to the facts and circumstances contained in the previously promulgated rulings of the Bureau resolving the tax issues on the matter.

4. The facts analogous to all of these promulgated rulings are as follows:

(a) The real estate developer is the registered owner of a parcel of land which undertook a real estate development project thereat by constructing a condominium building on said parcel of land in accordance with the provisions of Republic Act No.(RA) 4726, otherwise known as the Condominium Act;

(b) A Condominium Corporation is formed for the purpose of holding the land and the common areas, either in ownership or any other interest in real property recognized by law, and for managing the land and the common areas for the benefit of the condominium unit owners, and for such other purposes as may be necessary, incidental or convenient to the accomplishment of said purposes.

The articles of incorporation or by-laws of such Condominium Corporation do not contain any provision contrary to or inconsistent with the provisions of RA 4726, the enabling or master deed of conveyance, or the declaration of restrictions of the project.

Membership in a condominium corporation, regardless of whether it is a stock or non-stock corporation, is not transferable separately from the condominium unit of which it is an appurtenance.

When a member or stockholder ceases to own a unit in the project in which the condominium corporation owns or holds the common areas, he automatically ceases to be a member or stockholder of the condominium corporation;

(c) The Condominium Corporation while enjoying the power of ownership is prohibited by law from transacting the properties for the purpose of gainful profit;

(d) A Deed of Conveyance was executed between the owner-developer and the Condominium Corporation whereby the former conveyed the title to the said land, the common areas of the building and facilities of the project, in favor of the latter, free from all liens and encumbrances;

(e) The said Deed of Conveyance was executed without any monetary consideration, in pursuance to the requirements of the Condominium Act which mandates that the Condominium Corporation shall hold title to the common areas (including the land).

#### **IV. DOCUMENTARY REQUIREMENTS -**