REVENUE MEMORANDUM CIRCULAR NO. 19-2018 issued on March 19, 2018 clarifies the basis for the computation of Capital Gains Tax (CGT) and Documentary Stamp Tax (DST) in sales transactions of real property previously mortgaged at a value higher than its zonal or Fair Market Value.

Based on Section 24(D)(1) and Section 196 in relation to Section 6(E) of the National Internal Revenue Code of 1997 (Tax Code), as amended, it is clear that the only basis for the computation of the CGT and the DST are: (i) gross selling price or the consideration contracted to be paid for such realty; and (ii) Fair Market Value determined in accordance with Section 6(E) of the Tax Code. It should be noted that the term “Fair Market Value”, as used in the provisions, is qualified by the phrase “determined in accordance with Section 6(E) of this Code”; which states that “The Commissioner is hereby authorized to divide the Philippines into different zones or areas and shall, upon consultation with competent appraisers both from the private and public sectors, determine the fair market value of real properties located in each zone or area. For purposes of computing any internal revenue tax, the value of the property shall be, whichever is the higher of:

“(1) the fair market value as determined by the Commissioner; or
“(2) the fair market value as shown in the schedule of values of the Provincial and City Assessors.”

In practice, the Fair Market Value, as determined by the Commissioner, is commonly known as the Zonal Value. From the foregoing, the term “Fair Market Value” is classified further into the:

a. Zonal Value set by the Commissioner of Internal Revenue and published in Department Orders; and
b. Fair Market Value as shown in the schedule of the Provincial or City Assessors.

Thus, Revenue District Officers cannot veer away from the provisions of the law and consider the mortgage value of a property previously set.