REVENUE MEMORANDUM CIRCULAR NO. 62-2006 issued on October 20, 2006 clarifies the tax treatment of foreclosure sales initiated by the Department of Agrarian Reform (DAR).

Revenue Regulations No. 4-99, which applies only to extra-judicial foreclosure sale initiated by banks, finance and insurance companies, is not applicable to the foreclosure sales initiated by DAR. As such, like any other extra-judicial foreclosures which do not fall within the purview of RR No. 4-99, the Capital Gains Tax is due within 30 days from the time the foreclosure sale was made. The Withholding and Documentary Stamp Taxes are due on the 5th day after the close of the month when the foreclosure sale was made.

DAR, representing the owner-mortgagor, is considered as the “statutory seller”, supposedly the one liable to pay the Capital Gains/Income/Withholding Tax due on such foreclosure sale based on the bid price in the auction sale or the zonal value of the foreclosed property, whichever is higher. However, in the case where DAR is the highest bidder in the foreclosure sale, of which, eventually, it will be the party to consolidate the title of the foreclosed property in the name of the Government if such property is not redeemed, DAR, as the statutory seller and at the same time the buyer, in effect, is exempt from all taxes, including the penalties, surcharge and interest imposed in connection therewith inasmuch as the funds that will be used to defray the same will be coming from the government’s treasury.

However, before the foreclosed properties can be transferred in the name of the Republic of the Philippines, DAR must first obtain a Certificate Authorizing Registration (CAR) in the respective Revenue District Offices where the subject properties are located.

On the other hand, and as represented, in the case wherein the highest bidder is other than DAR, the highest bidder assumes payment of taxes imposed as a consequence of the foreclosure sale. Thus, if there is delay in the payment of the taxes due thereon, the highest bidder shall be liable to pay the additions thereto (penalties, surcharge and interest imposed for the delay in payment of taxes).

Relative to the transfer or consolidation of the titles of foreclosed properties in favor of the Republic of the Philippines, in cases wherein DAR is the highest bidder and no redemption has been made, all Revenue District Officers concerned are directed to issue the CAR upon filing by the DAR of the corresponding returns reflecting that the foreclosure sale in its favor is exempt from taxes, Sheriff’s Certificates of Sale and proof/s that the transaction for which CARs are being requested are transactions made pursuant to the DAR-SPO/DBP Window III Financing Program.