Legal Watch

REVENUE MEMORANDUM CIRCULAR NO. 72-2026

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Agency Name

Bureau of Internal Revenue (BIR)

Issuance Title

Clarifying the Tax Treatment of Transfers of Proprietary Club Shares Held Under Nominee or Trust Agreements, Dispensing with Prior Confirmatory Ruling Subject to Post-Audit Verification

Issuance Date

30 June 2026

Link

https://bir-cdn.bir.gov.ph/BIR/pdf/RMC%20No.%2072-2026_redacted.pdf

SUMMARY

This circular clarifies the tax treatment of transfers of shares under nominee or trustee arrangements in which the corporation is the established beneficial owner, as supported by contemporaneous documentary evidence and consistent accounting treatment recognizing the shares as corporate assets. The BIR clarifies that as long as there is no sale, exchange, or other disposition of beneficial ownership and the trustor-corporation remains to be the beneficial owner of the share, the transfer shall not be subject to:

a. Capital Gains Tax (CGT) under Section 24(B)(3) of the Tax Code.
b. Documentary Stamp Tax (DST) under Section 175 of the Tax Code.
c. Donor's Tax under Section 98 of the Tax Code, there being no animus donandi.

Consistent with the Ease of Doing Business and Efficient Government Service Delivery Act of 2018 (RA No. 11032), the BIR dispenses with the requirement of securing a prior confirmatory ruling for transfers of proprietary club shares, without prejudice to post-audit verification and the application of the substance-over-form doctrine, provided that the following conditions are strictly met:

1. the corporation remains the beneficial owner;
2. the transfer is documented by a Declaration of Trust or Trust Agreement;
3. the share is recorded as a corporate asset in the company's books; and
4. the transfer is made without any monetary or non-monetary consideration in favor of the outgoing or incoming nominee. Any misrepresentation or failure to comply subjects the transaction to the applicable taxes, penalties, and surcharges, including possible recharacterization based on its true nature.