# Advance Ruling Summary No. 01/2020

## 1. Subject:

Whether the Company is liable for GST registration following the sale of two non-residential properties.

# 2. Relevant background and facts:

The Company is a non-GST registered business whose principal activities relate to the rental of properties and investment holding. In addition to receiving rental income, the Company also earns income from its investments such as equity shares and debt securities.

The Company sold two non-residential properties ("Properties A and B") in 2019, which it acquired more than 40 years ago. Properties A and B were held by the Company to derive rental income and/or for the purpose of capital appreciation. Excluding the sale of the Properties, the annual taxable supplies of the Company did not exceed S\$1 million.

The Company does not have a history of recurring sales and purchases of properties, other than the sale of a number of residential units in 2012 relating to another property, Property C. Following the sale of Properties A and B, the Company continues to hold a commercial unit in Property C as a capital investment.

# 3. Relevant legislative provisions:

The liability to register is prescribed under paragraph 1(1) of the First Schedule to the GST Act, which provides that a person who makes taxable supplies is liable to be registered —

- a) at the end of any quarter where the total value of all his taxable supplies made in Singapore in that quarter and the past 3 quarters has exceeded S\$1 million ("Retrospective Basis"); or
- b) at any time, if there are reasonable grounds for believing that the total value of his taxable supplies in the next 12 months will exceed S\$1 million ("Prospective Basis").

In determining the value of taxable supplies for the purpose of GST registration, paragraph 1C(2) of the First Schedule to the GST Act provides that the supplies of goods or services that are capital assets of the business shall be excluded.

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### 4. The ruling:

The sale of Properties A and B are sales of capital assets. Accordingly, the value of Properties A and B need not be included in the value of taxable supplies when determining the Company's liability to register for GST. Since the Company does not make other taxable supplies exceeding the GST registration threshold of S\$1 million, it would not be required to register for GST.

#### 5. Reasons for the decision:

The sale of Properties A and B are regarded as sales of capital assets on the basis that:

- (a) Since acquisition, Properties A and B had been held by the Company to derive rental income and/or for the purpose of capital appreciation. Further, the Company had recorded Properties A and B in its financial accounts under the category of "Investment Properties";
- (b) Properties A and B were acquired by the Company more than 40 years ago. Considering the long period of ownership, the Company was unlikely to have purchased them with a view towards speculative gain;
- (c) The sale of residential units relating to Property C and the sale of Properties A and B took place substantially far apart. Other than the sale of the residential units, the Company had not sold any other property. In addition, the commercial unit relating to Property C, which is still held by the Company, has been acknowledged for Income Tax purposes as a capital asset;
- (d) The Company's financial accounts show that its direct operating expenses (including repair and maintenance) arose from its rental generating properties. This shows that the use of its property assets was to generate rental income;
- (e) The Company represented that it decided to sell Properties A and B as rental income had stagnated and selling the Properties would unlock their value. This points towards the Properties being held for long-term investment rather than speculative gain.

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