REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

RA No. 3844, as amended by RA No. 6657
BIR Ruling No. 353-2019
OT- 031-2024
JUN 05 2024

NELSON CORNELIO JAVIER
87 San Jose, Calamba
Laguna

Sir:

This refers to your letter requesting for exemption from the payment of donor's tax relative to the disturbance compensation you received from the land owner, Ms. Ma. Luisa Rueda (Ms. Rueda) pursuant to Section 66 of Republic Act (RA) No. 6657 otherwise known as the "Comprehensive Agrarian Reform Law of 1988".

Documents submitted disclosed that Ms. Rueda is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. containing an area of Eighteen Thousand Seven Hundred Ninety (18,790) square meters located at Brgy. Lecheria, Calamba, Laguna. Based on the Certification dated January 15, 2022 issued by Mr. Floro Manaig, Chairman of the Barangay Agrarian Reform Council (BARC) – Barangay Lecheria, Calamba, Laguna, you are the legal tenant over the parcels of land owned by Ms. Rueda located at Brgy. Lecheria, Calamba, Laguna, with a total area of Thirty Thousand Nine Hundred Thirty-Two (30,932) square meters, more or less. Ms. Rueda agreed to terminate the above-mentioned tenancy relationship, thus, on April 26, 2023, a Deed of Donation of a Portion of Land with Partition Agreement was executed by the Ms. Rueda in your favor. The former transferred and conveyed, by way of disturbance compensation, to the latter a portion of TCT No. with an area of One Thousand Eight Hundred Twenty-Four (1,000) square meters. Hence, this request.

In reply, please be informed that Section 66 of RA No. 6657 otherwise known as the "Comprehensive Agrarian Reform Law of 1988" states that:

> *"Section 66. Exemptions from Taxes and Fees of Land Transfers. — Transactions under this Act involving a transfer of ownership, whether from natural or juridical persons, shall be exempted from taxes arising from capital gains. These transactions shall also be exempted from the payment of registration fees, and all other taxes and fees for the conveyance or transfer thereof; provided, that all arrearages in real property taxes,*

without penalty or interest, shall be deductible from the compensation to which the owner may be entitled."

These transactions include, among others, transfer of land to a tenant as disturbance compensation as a result of the extinguishment of tenancy relationship by reason of the reclassification or conversion of the agricultural land into non-agricultural uses or purposes enunciated in Section 36 (1) of RA No. 3844,[1] as amended, *viz*:

> *"Section 36. Possession of Landholding; Exceptions. — Notwithstanding any agreement as to the period or future surrender, of the land, an agricultural lessee shall continue in the enjoyment and possession of his landholding, except when his dispossession has been authorized by the Court in a judgment that is final and executory if after due hearing it is shown that:*
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> *(1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years;"* (Underscoring supplied)

Only Section 35 of RA No. 3844 was expressly repealed by RA No. 6657. Hence, disturbance compensation given to a tenant due to the extinguishment of tenancy relationship by reason of reclassification or conversion of the agricultural land into non-agricultural uses, pursuant to Section 36 of RA No. 3844, as amended, is still considered one of the transactions contemplated under Section 66 of RA No. 6657.[2]

However, in this case, while the parties agreed to terminate their agricultural tenancy relationship, nothing on the documents presented show that the land was declared by the proper authorities as suited for residential, commercial, industrial or some other urban purposes. In fact, all documents submitted would show that the subject land donated is still classified (Actual Use) as Agricultural. In the absence of any proof showing that the subject parcel of land has already been converted into non-agricultural uses, the transfer of the same by way of disturbance compensation is not covered by RA No. 6657.

Please take note that *"a tax exemption represents a loss of revenue to the State and must therefore not be lightly granted or inferred. When claimed, it must be strictly construed against the taxpayer, who must prove that he comes under the exemption rather than the rule that everyone must contribute his just share in the maintenance of the government".*[3] *"He who would seek to be thus privileged must*

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[1] As amended by RA No. 6389.
[2] BIR Ruling No. 353-19 dated June 20, 2019.
[3] Justice Cruz, Dissenting opinion in Maceda vs. Macaraig, G.R. No. 88291, May 31, 1991.

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justify it by words too plain to be mistaken and too categorical to be misinterpreted".[4]

In view of the foregoing, your request for exemption from donor's tax cannot be sustained because the exemption under Section 66 of RA No. 6657 covers only capital gains tax. Granting that the said law accommodates donor's tax, the exemption thereof cannot still be permitted as the basis for disturbance compensation has not been factually established, the subject parcel of land has not yet been declared non-agricultural.

Please be guided accordingly.

Very truly yours,



ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K-1-FFR

CC: **Marco A. Yara**
Revenue District Officer
Revenue District Office No. 56 – Calamba City, Central Laguna
RP Bldg. cor. M.H. del Pilar cor. J.P. Rizal, Brgy. 6, Calamba City

[4] Commissioner of Internal Revenue vs. P.J. Kiener Co., Ltd., G.R. No. L-24754, July 18, 1975.