**January 21, 2020**

# BIR RULING NO. OT-013-20

Section 66, Republic Act (RA) No. 6657; BIR Ruling No. 531-17; BIR Ruling No. 393-16

*AAA*

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Sir :

This refers to your letter dated October 11, 2017 requesting exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the "KASUNDUAN" executed by you, as the Attorney-in-Fact of the real property owner BBB, in favor of CCC and DDD as disturbance compensation under Republic Act (RA) No. 3844, [1] as amended by RA No. 6389. [2]

Documents submitted disclosed that BBB, hereinafter referred to as "Landowner," is the registered owner of the parcel of land, identified as Lot 2261-B of the Subd. Plan (LRC) Psd-99331 located at Hinukay, Baliuag, Bulacan, covered by TCT No. T-61377, with the area of Thirty-Seven Thousand square meters (37,000 sq. m.), more or less.

On August 10, 2010, the "KASUNDUAN" was executed, whereby the landowner [3] transferred and conveyed Four Thousand square meters (4,000 sq. m.) to CCC and Eighteen Thousand square meters (18,000 sq. m.) to DDD, the said portions are covered by TCT No. T-61377. Subsequently, the Department of Agrarian Reform issued a Certification dated July 21, 2017 which states that *"[T]his further certifies that portion of Lot 2261-B of the subd. Plan (LRC) Psd-99331 with an area of 4,000 and 18,000 square meters, more or less as stated in their 'KASUNDUAN' dated August 11, 2010 as DISTURBANCE COMPENSATION of CCC and DDD respectively under Section 66 of RA 6657, otherwise known as Comprehensive Agrarian Reform Law, is exempt from the payment of the capital gains tax."*

In reply, please be informed that transfers of real property by way of Disturbance Compensation is exempt from CGT and DST pursuant to Section 66 of RA No. 6657 otherwise known as the *"Comprehensive Agrarian Reform Law of 1988"* which provides, *to*

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*wit*:

> *"Sec. 66. Exemption 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."*

Moreover, Section 36 (1) of RA No. 3844, as amended by Section 7 of RA No. 6389, allows disturbance compensation to the tenant as a result of extinguishment of tenancy relationship by reason of the reclassification or conversion of the agricultural land into non-agricultural uses, *to wit*:

> *"Sec. 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:*
>
> > *"(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";*

It must be noted that 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 the reclassification or conversion of the agricultural land into non-agricultural uses, pursuant to Section 36 of RA No. 3844, as amended by RA No. 6389, is still considered as one of the transactions contemplated under Section 66 of RA No. 6657.

However, the documents submitted failed to prove that the transfer of properties by way of disturbance compensation to CCC and DDD were the result of extinguishment of tenancy relationship by reason of the reclassification or conversion of the agricultural land into residential, commercial, industrial or some other urban purposes, pursuant to Section 36 of RA 3844, as amended by RA 6389. Such being the case, the transfer of the parcel of lands covered by TCT No. T-61377, in favor of CCC and DDD are not within the ambit of RA No. 6657 and, thus, subject to CGT and DST. *(BIR Ruling 393-2016 dated November 21, 2016)*

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Please be guided accordingly.

Very truly yours,

**(SGD.) CAESAR R. DULAY**
*Commissioner of Internal Revenue*

## Footnotes

1. Titled as *"Agricultural Land Reform Code."*
2. Titled as "Code of Agrarian Reforms of the Philippines."
3. Represented by AAA as the Attorney-in-Fact.

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