REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 66 RA 6657
BIR Ruling No. 571-12
#009-2016
1-8-2016

Bienvenido I. Guansing
Niugan, Angat, Bulacan

Dear Mr. Guansing,

This refers to your letter dated 22 January 2013 requesting exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the Deed of Assignment executed in your favor by Zosimo G. Rivera over a parcel of land with an area of Eight Thousand Six Hundred Thirteen (8,613) square meters conveyed as disturbance compensation under Republic Act (RA) 3844, as amended by RA 6389.

Based on the documents submitted, it shows that Zosimo G. Rivera is the registered owner of a parcel of land, particularly described as follows:

TCT No.

"A parcel of land (Lot 1083-A of the Subd. Plan PSD-03-185499, being a portion of Lot 1083 CAD 349, ANGAT CAD LRC REC NO.___) situated in the Barangay of Niugan, Municipality of Angat, Province of Bulacan...xxx...containing an area of Eight Thousand Six Hundred Thirteen (8,613) square meters, more or less."

that a Deed of Assignment dated 24 May 2012 was executed by Zosimo G. Rivera, conveying, by way of disturbance compensation, to Bienvenido I. Guansing the above-described parcel of land in conformity with the latter's right as tenant to receive disturbance compensation upon extinguishment of tenancy relationship as mandated by RA 3844, as amended by RA 6389; that on 26 November 2012, the Department of Agrarian Reform issued a Certification stating that Bienvenido Guansing is an agricultural lessee over a parcel of landholding covered by TCT containing an area of Eight Thousand Six Hundred Thirteen (8,613) square meters, more or less; and that the parties agreed to terminate their landowner-tenant relationship in accordance with RA 3844, as amended by RA 6389, through the execution of the Deed of Assignment dated 24 May 2012.

On 7 December 2012, the Department of Agrarian Reform issued a Certification manifesting no objection to the registration of the above-mentioned Deed of Assignment.

In reply, please be informed that transfer of real property by way of Disturbance Compensation is exempt from capital gains tax and documentary stamp tax pursuant to

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Section 66 of RA No. 6657 otherwise known as the "Comprehensive Agrarian Reform Law of 1988" which provides, viz:

> *"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 of RA 3844, as amended, allows disturbance compensation to the tenant as a result of extinguishment of tenancy relationship by reason of the reclassification/conversion of the agricultural land into non-agricultural land, 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 agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: Provided that the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental on his landholding in addition to his rights under Sections twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor, is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advanced notice of at least one agricultural year before ejectment proceedings are filed against him: Provided further that should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossessions."*

Only Section 35 of RA 3844 was expressly repealed by RA 6657. Hence, disturbance compensation given to a tenant pursuant to Section 36 of RA 3844 is still considered one of the transactions contemplated under Section 66 of RA 6657.

It is noted, however, that based on the Certification of Retention issued on December 5, 2012 by the Provincial Agrarian Reform Office (PARO), the lot covered by TCT No. TCT- , with an area of 0.8613 hectares, is the retention area granted to Zosimo G. Rivera pursuant to the latter's right of retention on

agricultural land/s covered by the Comprehensive Agrarian Reform Program (CARP) as provided under Section 6 of RA No. 6657, as amended. Being a retention area, said lot is outside the coverage of PD No. 27 and RA No. 6657. Such being the case, the transfer of the subject parcel of land in favor of Bienvenido Guansing is not within the ambit of RA No. 6657 and, thus, subject to the capital gains tax and documentary stamp tax.

Please be guided accordingly.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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