REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 101 (A)(2) of the Tax Code of 1997;
BIR Ruling No. 174-13;
BIR Ruling No. 283-12;
BIR Ruling No. 499-11
058-2017
7-15-2017

MUZON HIGH SCHOOL
Sarmiento Homes, Muzon,
San Jose del Monte City, Bulacan

Attention : **Ms. Purita J. Herrera**
Principal III

Gentlemen:

This refers to your letter dated July 15, 2014, requesting for the issuance of a Certificate of Tax Exemption of donor's tax relative to the Deed of Donation made by **P.S. SARMIENTO & SONS, INC.** to **KAGAWARAN NG EDUKASYON (Department of Education)** pursuant to Section 101 (A)(2) of the Tax Code of 1997, as amended.

Documents submitted show that **P.S. SARMIENTO & SONS, INC.** (hereinafter referred to as "Donor") with Taxpayer's Identification No. (TIN) is a corporation organized and existing under Philippine laws and represented by its President, Mr. Leonardo I. Sarmiento, who was duly authorized by the Board of Directors of the corporation to execute the Deed of Donation; that the donee, **KAGAWARAN NG EDUKASYON (Department of Education)** is a government agency created under the laws of the Republic of the Philippines; that the donor is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. issued by the Register of Deeds, Meycauyan, Bulacan, with an area of Four Thousand Seven Hundred Three (4,703) Square Meters, located in Brgy. Muzon, San Jose del Monte City, Bulacan; that a Deed of Donation was executed on January 14, 2004 whereby **P.S. SARMIENTO & SONS, INC.**, represented by its President, Mr. Leonardo L. Sarmiento, donated in favor of **KAGAWARAN NG EDUKASYON (Department of Education)** portion of the aforesaid property particularly an area of Three Thousand Eighty Nine (3,089) Square Meters which portion is now covered by TCT No. ; that the property donated shall be used exclusively as school site for San Jose del Monte National High School-Annex; and that the donee accepted the donation under the conditions set forth as embodied in the Deed of Donation.

In reply, please be informed that Section 101 (A)(2) of the Tax Code of 1997, as amended, provides:

> *"**SEC. 101. Exemption of Certain Gifts.-** The following gifts or donations shall be exempt from the tax provided for in this chapter:*
>
> *(A) In the Case of Gifts Made by a Resident.-*
>
> *xxx xxx xxx*
>
> *(2) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government; and*
>
> *xxx xxx xxx."*

According to the above, donations made for the use of the National Government or any entity created by any of its agencies which is not conducted for profit or to any political subdivision of the said Government shall be exempt from the donor's tax. Considering that the donation of a parcel of land was made by **P.S. SARMIENTO & SONS, INC.** in favor of **KAGAWARAN NG EDUKASYON (Department of Education)**, an agency of the National Government, said donation is exempt from donor's tax. *(BIR Ruling No. 174-13 dated May 17, 2013)*

Moreover, the aforesaid Deed of Donation is not subject to documentary stamp tax under Section 196 of the Tax Code of 1997, as amended, but only to the documentary stamp tax of P15.00 on certification under Section 188 of the same Code. *(BIR Ruling No. 283-2012 dated April 25, 2012)*

The donation is, however, subject to value-added tax (VAT) since the donor is a vat-registered real estate developer and the donated properties are deemed ordinary assets.

In *BIR Ruling No. 499-2011 dated December 15, 2011*, this Office ruled that:

> "If the donor is a Value-Added Tax (VAT) registered person and the donation is an ordinary asset, the donation is subject to VAT pursuant to Section 4.106-7 of Revenue Regulations (RR) No. 16-2005, the same being considered a transaction deemed sale, but the input VAT attributed to the VAT portion of the cost of the donation should be deducted from accumulated input VAT of the donor. If the donor is not a VAT registered person, the donation is exempt from VAT."
>
> "If the same properties acquired by gift are subsequently conveyed by way of sale or exchange, the sale will be subject to corporate income tax on the gain realized which is determined by deducting from the gross selling

price, the historical cost or the adjusted basis thereof, as it would be in the hands of the donor, pursuant to Section 27 in relation to Section 101, both of the Tax Code of 1997, as amended, and consequently to the creditable expanded withholding tax under Section 2.57.2 of RR No. 2-98, as amended. If **KAGAWARAN NG EDUKASYON (Department of Education)** donates the same properties donated to it to a non-exempt donee, it shall be liable for donor's tax pursuant to Section 98 of the Tax Code of 1997, as amended."

It is understood that this ruling is never intended and shall not be construed as giving authority to the Register of Deeds of Meycauayan, Bulacan to effect transfer of the land titles in the name of the donee without the necessary certificate of authority to register issued by this Bureau. In this regard, this ruling shall be presented to the Revenue District Office No. 25-B-Sta. Maria, Bulacan, in order for the latter to issue the Certificate Authorizing Registration (CAR). The CAR shall only be issued after the submission of the requirements provided under RMO 15-2003.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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