August 31, 2018

BIR RULING NO. 1140-18

Sec. 99 (B), Tax Code of 1997 & RA 6657

AAA

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Dear AAA,

This refers to your letter dated February 2, 2017 requesting for exemption from the payment of donor's tax under Section 99 of the Tax Code of 1997, as amended.

Sps. BBB and CCC, and DDD are the registered owners of an agricultural rice land situated in Brgy. Camachilihan, Bustos, Bulacan with an area of 24,036 sq. m., more or less and covered by Transfer Certificate of Title No. 039-2014014724 of the Registry of Deeds for Guiguinto, Bulacan under Tax Declaration No. 2014-06005-00774.

On December 28, 2015, a "Kasulatan ng Pagkakaloobpala ng Lupa sa Magsasaka," was executed by BBB married to CCC, et al. (Donors), in favor of the lone farmer-beneficiary, AAA (Donee), and which donation was accepted by the later.

In reply, please be informed that Section 66 of Republic Act No. 6657, otherwise known as the "Comprehensive Agrarian Reform Law of 1988," which you invoke to support your request for tax exemption provides:

> "***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*."

Under the above-quoted provision, the conveyance by the owner of the land in the form of disturbance compensation, is exempt from capital gains tax and documentary stamp tax.

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However, the Department of Agrarian Reform (DAR), the implementing agency of the Comprehensive Agrarian Reform Program (CARP), certified on February 22, 2016 that the subject property is not covered by CARP since the property involved is less than five (5) hectares. Accordingly, Section 66 of Republic Act No. 6657 or the Comprehensive Agrarian Reform Law finds no application to your case.

In view of the foregoing, the transfer by BBB, et al. of their property, to you is subject to donor's tax pursuant to Section 99 (B) of the Tax Code of 1997, as amended.

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,

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

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