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

Bureau of Internal Revenue Ruling

Sections 27(D)(5), 32(B)(7)(b) of 1997 NIRC	000-00	#229-2017

Person to call: Chief, Legal and Legislative Division
Tel. Nos. 926-5536 / 927-0963

Date : May 15, 2017

BUREAU OF FISHERIES AND AQUATIC RESOURCES
PCA Building, Elliptical Road, Diliman, Quezon City

Attention : Atty. Asis G. Perez
Director

Gentlemen:

This refers to your letters dated October 29, 2015 and February 9, 2016, respectively, requesting in effect, for a ruling on whether the assignment of a parcel of land by the Department of Agriculture (DA) to the Bureau of Fisheries and Aquatic Resources (BFAR) is exempt from all taxes.

Documents submitted show that then Department of Agriculture and Natural Resources (DANR), a government entity created and existing under the laws of the Philippines is the registered owner of a parcel of land described as Lot 2-B of the subdivision plan Bsd-11829 and covered by Transfer Certificate of Title (TCT) No.). The aforesaid lot is located along Elliptical Rd. cor. Visayas Ave., Brgy. Vasra, Quezon City with an area of 149,093.36 sq.m. During the martial law years, DANR was split into two (2) separate departments by virtue of Presidential Decree (P.D.) No. 461, the Department of Agriculture (DA with TIN) and the Department of Environment and Natural Resources (DENR). On the other hand, the Bureau of Fisheries and Aquatic Resources (BFAR with TIN) is a government agency responsible for the development, management and conservation of the Philippine fisheries and aquatic resources. BFAR had before requested the Secretary of DENR to allot a portion of the above-quoted property, particularly Lot 2-B-3 containing an area of 13,050.50 sq.m. purposely for the use and occupancy of their office. BFAR used to be an office under the DENR but was later transferred to DA pursuant to Government Reorganization Plan of 1972.

The designated land for BFAR was previously allocated to Bureau of Soils and Water Management (BSWM) under a Deed of Assignment done by former Secretary of Agriculture Carlos G. Dominguez dated July 3, 1987. To formally apportion a specific lot for BFAR, then Secretary Roberto S. Sebastian on July 1992 executed a deed and re-assigned the above BSWM property to BFAR upon request of its former Director Guillermo L. Morales in replacement of another lot (particularly Lot 1-L Lot 1 Bsd 20555). With the execution of the

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foregoing instruments, BFAR applied with the DENR for the partition of the land. Having been approved by the said agency, the subject property was subsequently segregated and mapped. BFAR now applies for the issuance of a title in its name.

In reply, please be informed that then Section 34(h) of the 1977 Tax Code, as amended by Batas Pambansa (B.P.) Blg. 37 and implemented by Revenue Regulations No. 8-79, requires the imposition of a final schedular tax on capital gains realized from sales or other disposition of real property on or after September 7, 1979 by citizens of the Philippines or resident alien individuals. But, sales or other disposition of real property by a corporation remain subject to the corporate income tax imposed under Section 24 of the Tax Code of 1977, as amended.

While it is true that the conveyance of the aforesaid property by DA in favor of BFAR was in accordance with a Deed of Assignment executed on July 1992 by then Secretary of Agriculture Roberto S. Sebastian, the disposition was made without monetary consideration. As such, this Office hereby rules that the assignment of the afore-quoted property is not subject to the final tax imposed on capital gains under Section 34(h) of the 1977 Tax Code, as amended by B.P. Blg. 37. Neither is the said transaction subject to the regular corporate income tax imposed under Section 24 of the same Tax Code, as amended.

Accordingly, this Office holds that DA and BFAR, both being government agencies and are exercising purely governmental functions when the above-mentioned Deed of Assignment was executed is exempt from the payment of regular corporate income tax and documentary stamp tax prescribed under then Section 245 of the 1977 Tax Code, as amended, but subject to the documentary stamp tax of ₱3.00 imposed under Section 237 of the same Code, as amended by P.D. 1959 dated October 10, 1984.

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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