July 5, 2019

BIR RULING NO. 379-19

Section 66, Republic Act No. 6657; BIR Ruling No. 1068-2016

AAA

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Madam :

This refers to your letter dated September 02, 2016, requesting for tax exemption on the Kasulatan ng Pagkakaloob (Deed of Assignment as Disturbance Compensation) executed by you in favor of BBB over two parcels of land with a total area of One Thousand (1,000) square meters, conveyed as disturbance compensation under Republic Act (RA) No. 3844, as amended by RA No. 6389.

Documents submitted disclosed that CCC, married to DDD, EEE, married to FFF, GGG, married to HHH, III, married to JJJ, KKK, married to LLL, MMM, married to NNN, AAA, married to OOO, and PPP, married to QQQ, (hereinafter referred to as Landowners) are the registered owners of two parcels of land, covered by Transfer Certificate of Title (TCT) No. T-54909 P (M) with an area of Nine Thousand Three Hundred Ninety-Seven (9,397) square meters, and TCT No. T-54908 P (M) with an area of Two Thousand Six Hundred Twenty-Two (2,622) square meters, both issued by the Registry of Deeds for the Meycauayan Branch. On August 22, 2016, AAA, representing [1] all the Landowners, executed a Kasulatan ng Pagkakaloob (Deed of Assignment as Disturbance Compensation) in favor of BBB, conveying to the latter One Thousand (1,000) [2] square meters as disturbance compensation.

On August 23, 2016, the Department of Agrarian Reform issued a Certification stating that per Kasunduan sa Pamumuwisan kept on file, it appears that RRR (deceased) is the Agricultural Lessee (Leaseholder) over a parcel of land located at Brgy. Wakas, Bocaue, Bulacan with an area of Eight Thousand (8,000) square meters, more or less owned by SSS. The same Certification also states that based on the Kasunduan ng Pagwawaksi ng Karapatan sa Pagsasaka (Kapalit ang Disturbance Compensation) between AAA and TTT and the Affidavits of Conformities of TTT, UUU, VVV, WWW, XXX, and YYY, BBB is

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the successor Tenant of the deceased RRR over the subject parcel of land.

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 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 (1) of RA 3844, as amended by Section 7 of RA 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 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:*
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> > *(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;"*

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, as amended by RA 6389, is still considered one of the transactions contemplated under Section 66 of RA 6657.

However, the documents submitted failed to prove that the disturbance compensation received by BBB was a result of extinguishment of tenancy relationship because 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 subject parcels of land in favor of BBB is not within the ambit of RA No. 6657 and, thus, subject to the capital gains tax (CGT) and documentary

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stamp tax (DST).

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. By virtue of several Special Power of Attorney dated December 16, 2013, August 29, 2013, and June 29, 2014.
2. 723 square meters [from TCT No. 54908 P (M)] and 268 square meters [from TCT No. 54909 P (M)].

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