March 15, 2018

BIR RULING NO. 526-18

Section 60 (B) of the National Internal Revenue Code of 1997, as amended

AAA

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Sir :

This refers to your letter dated October 09, 2017 requesting for tax exemption pursuant to Section 60 (B) of the National Internal Revenue Code of 1997, as amended.

Documents submitted disclose that AFP Retirement and Separation Benefits System ("AFPRSBS" for brevity) is a pension fund duly organized and existing under and by virtue of Presidential Decree (PD) No. 361, as amended; that AFPRSBS is the absolute owner of two (2) parcels of land, with improvements thereon, situated in Camarin, Caloocan City, covered by Transfer Certificate of Title (TCT) Nos. 221522 and 221524; and that on May 07, 2012, AFPRSBS executed a Deed of Absolute Sale in favor of AAA and BBB covering the above-mentioned parcels of land, including the improvements thereon.

In reply thereto, please be informed that Section 60 (B) of the National Internal Revenue Code of 1997, as amended, provides that:

> *"Sec. 60 (B). Exception. — The tax imposed by Title II shall not apply to employees' trust which forms part of a pension, stock bonus, or profit-sharing plan of an employer for the benefit of some or all of his employees (1) if contributions are made to the trust by such employer, or employees, or both for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, and (2) if under the trust instrument it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the trust, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, purposes other than for the exclusive benefit off his employees. . ."*

Considering that AFPRSBS is an employee's trust fund established under PD No. 361, as amended by PD No. 1656, for the exclusive benefit of all the military members or

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commission officers and enlisted personnel of the Armed Forces of the Philippines (AFP) and the corpus or income of the fund is not used for or diverted to purposes other than for the exclusive benefit of the military members or commission officers and enlisted personnel of the AFP and their beneficiaries, this Office rules that the AFPRSBS is considered an employees' trust and, therefore, income of the trust fund from its investments is exempt from income tax and consequently from withholding tax pursuant to Section 60 (B) of the National Internal Revenue Code of 1997, as amended. Accordingly, the Deed of Absolute Sale dated May 07, 2012, executed by AFPRSBS in favor of AAA and BBB is not subject to income tax/capital gains tax/withholding tax pursuant to Section 60 (B) of the National Internal Revenue Code of 1997, as amended. However, it is subject to the documentary stamp taxes imposed in Section 188 and Section 196 of the National Internal Revenue 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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