April 10, 2018

BIR RULING NO. 617-18

Section 66, RA No. 6657; BIR Ruling No. 009-16

AAA

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Madam :

This refers to your letter dated October 29, 2014, duly indorsed by Revenue Region No. 5-Caloocan City, relative to the request for confirmation that the disturbance compensation in the form of land granted to you is exempt from taxes and all other fees.

Documents submitted disclose that BBB, CCC, DDD and EEE, hereinafter referred to as "Landowners," are the registered owners of a parcel of land, identified as Lot 13 Plan Psu-10161 covered by Transfer Certificate of Title (TCT) No. T-516814(M) issued by the Registry of Deeds for the Meycauayan Branch. The aforesaid property is situated at Brgy. Borol 1st, Balagtas, Bulacan with an area of Fifty-Two Thousand Nine Hundred One square meters (52,901 sq.m.), more or less.

On April 14, 2014, a Deed of Transfer and Assignment was executed, whereby the landowners, [1] by way of "Disturbance Compensation," transferred and conveyed to AAA, Ten Thousand One Hundred Ninety Four and 60/100 square meters (10,194.60 sq.m.[2]), portion of the above-mentioned property. Certification No. 025-2014 dated July 22, 2014 was issued by the Provincial Agrarian Reform Office (PARO) of Bulacan, stating that Lots 13-F and 13-A, Psd-415694 with an area of 213 and 9,981.60 covered by TCT No. T-516814(M) are actually disturbance compensation under Section 66 of Republic Act (RA) No. 6657.

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*

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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 uses, 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 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 AAA 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 parcel of land in favor of AAA is not within the ambit of RA No. 6657 and, thus, subject to the capital gains tax and documentary stamp tax.

Please be guided accordingly.

Very truly yours,

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

Footnotes

1. FFF is the Attorney-in-Fact of CCC and BBB.

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