REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

Section 66 of R.A. No. 6657; Section 36 of R.A. No. 3844;
BIR Ruling No. 009-16
OT- 005 - 2024
JAN 18 2024

EMELITA VALENCIA NAZARIO
FRANCISCO BALTAZAR, JR.
ELEUTERIO C. BALTAZAR
EVELYN T. MENDOZA
ANGEL S. CRUZ
RUFINO M. TOMAS
YOLANDA T. ARISTO
Plaridel Bypass Road, Baliuag, Bulacan

Gentlemen:

This refers to your consolidated requests for exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the Deeds of Assignment dated September 18, 2017 executed by Emelita Valencia Nazario in favor of Francisco Baltazar, Jr., Eleuterio C. Baltazar, Marcelito T. Igna, Evelyn T. Mendoza, Yolanda T. Aristo, Rufino M. Tomas, Alicia Baltazar Manalaysay, and Angel S. Cruz (the "assignees"), over a portion of land, particularly an area of and ( ) square meters covered by Transfer Certificate of Title (TCT) No.) conveyed as disturbance compensation under Republic Act (R.A.) No. 3844[1], as amended by R.A. No. 6389[2].

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 R.A. 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 R.A. No. 3844, as amended by Section 7 of R.A. No. 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:

4

---

[1] Republic Act No. 3844 entitled "An Act to Ordain the Agricultural Land Reform Code and to Institute Land Reforms in The Philippines, Including The Abolition of Tenancy and The Channeling of Capital into Industry, Provide for The Necessary Implementing Agencies, Appropriate Funds Therefor and for Other Purposes."

[2] Republic Act No. 6389 entitled "An Act Amending Republic Act Numbered Thirty-Eight Hundred and Forty-Four, As Amended, Otherwise Known as The Agricultural Land Reform Code, And for Other Purposes."

OT- 005-2024
JAN 18 2024

"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:

> *(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 R.A. No. 3844 was expressly repealed by R.A. No. 6657. Hence, disturbance compensation given to a tenant pursuant to Section 36 of R.A. No. 3844, as amended by R.A. No. 6389, is still considered one of the transactions contemplated under Section 66 of R.A. No. 6657.

However, documents submitted failed to prove that the disturbance compensation received by the assignees was a result of the 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 R.A. No. 3844, as amended by R.A. No. 6389. Such being the case, the transfer of the subject parcel of land in favor of the assignees is subject to capital gains tax and documentary stamp tax.

Please be guided accordingly.

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue

K1-RPT
K1-FR-21-0629