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

Republic Act No. 6657
BIR Ruling No. 091-14
457-2017
9-28-2017

Mr. JUANITO SERAPIO COSTUNA
#31 Yellowbell Road, Pilar Village,
Las Piñas City

Sir:

This refers to your letter dated August 12, 2014 requesting for a Certificate of Tax Exemption from the payment of capital gains tax and documentary stamp tax on the transfer by the heirs of **Salud Serapio Costuna** of Nine Hundred (900) square meters of land embraced by Transfer Certificate of Title (TCT) No. with a total area of Eleven Thousand Five Hundred Ninety Seven (11,597) square meters in favor of **Milagros G. Sanchez** as her Disturbance Compensation under Section 66 of Republic Act No. 6657, otherwise known as the "Comprehensive Agrarian Reform Law".

Documents submitted disclose that **Juanito S. Costuna**, married to Estrellita P. Costuna, residing at #31 Yellowbell Road, Pilar Village, Las Piñas City, **Ferdinand S. Costuna**, married to Marietta Coles, **Evelyn C. Francisco**, married to Oliver D. Francisco, **Leonida C. Castillo**, married to Carlo G. Castillo, with postal address at #134 DPHP, 11th Avenue Grace Park, Caloocan City are the legal heirs of **Salud Serapio Costuna** from whom they inherited a parcel of agricultural land covered by Transfer Certificate of Title (TCT) No. with a total area of Eleven Thousand Five Hunderd Ninety Seven (11,597) square meters, more or less, located in Brgy. Catmon, Sta. Maria, Bulacan; that the said parcel of land has registered tenants named Spouses **Aniceto Gumafelix** and **Angelina M. Gumafelix** who are now both deceased; that **Milagros G. Sanchez**, on her behalf and as Attorney-In-Fact of **Marissa G. Corea**, married to Marcelino Corea, **Renato R. Gumafelix**, married to Catherine Guevarra, **Abella G. De Luna**, married to Wenceslao De Luna, **Manoleto Resurreccion**, married to Emma Ressureccion, and **Jaime R. Gumafelix**, single, are the successor-tenants of the said agricultural land; that on June 29, 2012, **Milagros G. Sanchez** executed a "SALAYSAY" (Sworn Statement) whereby she is voluntarily surrendering the land they are tilling and ending their tenancy relationship with the landowners; that on June 25, 2014, the legal heirs of **Salud Serapio Costuna** have executed a DEED OF PARTITION WITH DONATION whereby they agreed that TCT No. be subdivided and designated into **Lot 9-D-8-A, Lot 9-D-8-B, Lot 9-D-8-C, Lot 9-D-8-D** and **Lot 9-D-8-E** as per tracing cloth and blueprint plan (LRA) **Psd 431116**, duly approved by the Bureau of Lands on October 23, 2012; that they further agreed to register the above subdivided property in their names as seen in the approved BIR CAR Nos. and , except for **Lot 9-D-8-A** with an area of Nine Hundred (900) square meters which was awarded and assigned to **Milagros G. Sanchez**, married to Clemente F. Sanchez as Disturbance Compensation being the successor tenant of the late Spouses Aniceto Gumefelix and Angelina Gumafelix; that the land awarded to **Milagros G. Sanchez** will be used for the construction of their new residential house as stated in her "SALAYSAY" (Sworn Statement) dated June 29, 2012 and is now being used as residential purposes as certified by the Punong Barangay, Brgy. Catmon, Sta. Maria, Bulacan dated January 13, 2017; that Tax Declaration No. was issued by the Municipal Assessor of Sta. Maria, Bulacan classifying that the 900 sq.m. under TCT No. is a residential lot; and that a Certification dated April 23, 2015 was issued by the Provincial Agrarian Reform Program Officer (PARPO) of the Department of Agrarian Reform (DAR) stating that the assigned portion Psd- with an area of 900 square meters, more or less as stated in the DEED OF PARTITION WITH DONATION dated June 25, 2014 is actually a DISTURBANCE COMPENSATION awarded to **Milagros G. Sanchez** under Section 66 of RA 6657, otherwise known as Comprehensive Agrarian Reform Law.

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 Republic Act (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."

The records include a Certification, dated April 23, 2014, from the Provincial Agrarian Reform Office (PARO) of Baliuag, Bulacan, certifying that the subject property was verified as disturbance compensation of tenant and beneficiary, Milagros Gumafelix Sanchez. Also attached is Tax Declaration No. issued by the Municipal Assessor of Sta. Maria, Bulacan classifying that the 900 sq.m. under TCT No. is a residential lot. Be it noted that Section 36 (1) of RA 3844, as amended, allows disturbance compensation to a tenant in case of termination of tenancy relationship by reason of the 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 judgement that is final and executory if after due hearing it is shown that:
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> (1) The agricultural lessor-owner or a member of his immediate family will personally cultivate the landholding or will convert the landholding, if suitably located, into residential, factory, hospital or school site or other useful non-agricultural purposes: Provided; That the agricultural lessee shall be entitled to disturbance compensation equivalent to five years rental in his landholding in addition to his rights under Section twenty-five and thirty-four, except when the land owned and leased by the agricultural lessor, is not more than five hectares, in which case instead of disturbance compensation the lessee may be entitled to an advance notice of at least one agricultural year before ejectment proceedings are filed against him: Provided, further, that should the landholder not cultivate the land himself for three years or fail to substantially carry out such conversion within one

> year after the dispossession of the tenant, it shall be presumed that he acted in bad faith and the tenant shall have the right to demand possession of the land and recover damages for any loss incurred by him because of said dispossessions.

Only Section 35 of RA 3844 was expressly repealed by RA 6657. Thus, the transfer of land by way of disturbance compensation, as in this instance, is still considered one of the transactions contemplated under Section 66 of RA 6657 especially considering that the land is no longer being used for agricultural purposes.

Such being the case, the transfer of TCT No. by heirs of Salud Serapio Costuna in favor of Milagros G. Sanchez, in the form of disturbance compensation, is exempt from capital gain tax and documentary stamp tax pursuant to the aforecited provision. *(BIR Ruling No. 091-14 dated March 7, 2014)*

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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