REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Sec. 101 (A) (3) of the Tax Code of 1997
BIR Ruling No. 083-13 BIR Ruling No. 429-11
#360-2017

8-9-2017
Date

ABUYOG ACADEMY, INCORPORATED
Real St., Abuyog, Leyte

Attention: ***ENGR. AIDA ZENAIDA LOPEZ-RINOS***
School Director

Gentlemen:

This refers to the indorsement letter of Revenue Region No. 14– Tacloban City dated October 5, 2012 forwarding to this office a request for exemption from the payment of donor's tax on the donation of parcels of land by **AIDA ZENAIDA LOPEZ-RIÑOS, DELVIN LOPEZ ARESGADO** and **LUCHIE LOPEZ PASADAS** in favor of **ABUYOG ACADEMY, INCORPORATED.**

It is represented that **AIDA ZENAIDA LOPEZ-RIÑOS, DELVIN LOPEZ ARESGADO** and **LUCHIE LOPEZ PASADAS** are the heirs of ELISEO N. LOPEZ who died intestate on October 29, 1976 in Abuyog, Leyte; the latter owns two parcels of land both located at Real St., Brgy. Bito, Abuyog, Leyte; the said properties are covered by Tax Declaration Nos. and with a total area of 5,189 sq. m. and 120 sq. m, respectively. On the other hand, the **ABUYOG ACADEMY, INCORPORATED**, is an educational institution with Taxpayer's Identification No. and registered with the Securities and Exchange Commission under Registration No. On September 25, 2012, **AIDA ZENAIDA LOPEZ-RIÑOS, DELVIN LOPEZ ARESGADO** and **LUCHIE LOPEZ PASADAS** executed a Deed of Extra-Judicial Settlement of the Estate of Eliseo N. Lopez with Donation wherein the two properties were donated to **ABUYOG ACADEMY, INCORPORATED.**

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[1] As certified in the "History/Tracer of the Property Owned By ELISEO N. LOPEZ Located at Brgy. Bito, Abuyog, Leyte" the property is covered by Tax Declaration No. under Fifth Revision(R5) conducted in 1977. Tax Declaration No. appears in the Certificate Authorizing Registration issued by the Regional Director of Revenue Region No. 8-Tacloban City on May 19, 1977.

[2] As certified in the "History/Tracer of the Property Owned By ELISEO N. LOPEZ Located at Brgy. Bito, Abuyog, Leyte" the property is covered by Tax Declaration No. under Fifth Revision(R5) conducted in 1974. Tax Declaration No. appears in the Certificate Authorizing Registration issued by the Regional Director of Revenue Region No. 8-Tacloban City on May 19, 1977.

In reply, please be informed that gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited nongovernment organization, trust or philanthropic organization or research institution or organization is exempt from the payment of the donor's tax pursuant to Section 101 (A) (3) of the Tax Code of 1997, as amended, subject to the condition that not more than 30% of said gift shall be used by the donee for administration purposes. (*BIR Ruling No. 429-11 dated November 4, 2011; BIR Ruling No. 083-13 dated February 25, 2013*)

Inasmuch as **ABUYOG ACADEMY, INCORPORATED** is an educational institution, any donation to it is exempt from the payment of donor's tax pursuant to the above provisions of the Tax Code subject to the condition that not more than thirty percent (30%) of said gift shall be used by the donee for administration purposes. In case of donation of real property, the Register of Deeds shall annotate this condition at the back of the Transfer Certificate of Title because failure to comply with the said condition shall subject the donation of the above mentioned real properties to donor's tax.

It is noted that attached on the docket is a copy of a Certification Authorizing Registration dated May 19, 1977 issued by the Regional Director of Revenue Region No. 8 – Tacloban City certifying that the Heirs of ELISEO N. LOPEZ are cleared of any tax liability arising from the said transmission of properties declared in the return filed with the said office. However, the said Certification should be verified and validated pursuant to applicable revenue issuances on Certificates Authorizing Registration. **Absent the said verification and issuance of the corresponding Certificate Authorizing Registration, the said properties should be subjected to the appropriate Estate Taxes before it can be transferred to the donee.**

Moreover, the Deed of Donation is not subject to the capital gains tax and to the documentary stamp tax prescribed under Section 196 of the Tax Code of 1997, but only to the documentary stamp tax of P15.00 imposed under Section 188 of the same Tax Code.

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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