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

Section 101(A)(2), NIRC of 1997, as amended.
BIR Ruling No. 310-14; **BIR Ruling No. 283-12;** **BIR Ruling No. 206-11;**
#268-2016
6-22-2016

Honorable Lilia G. Pineda
Provincial Governor, City of San Fernando
Pampanga

Dear Governor Pineda:

This refers to your letter dated September 6, 2015 requesting for an opinion whether the donation of a parcel of land by the City of San Fernando to the Bureau of Internal Revenue (BIR) is exempt from donor's tax in accordance with Section 101(A)(2) of The National Internal Revenue Code of 1997, as amended.

Documents submitted show that in a regular session of the Sangguniang Panlalawigan of Pampanga held on January 16, 2015 at the Session Hall, Capitol Building City of San Fernando, Pampanga, an ordinance authorizing Governor Lilia G. Pineda to donate a certain parcel of land identified as Lot 3743-A-1, PSD-03-211422 owned by the Province of Pampanga situated at Barangay Sindalan, City of San Fernando, Pampanga containing an area of Ten Thousand (10,000) square meters in favor of the Bureau of Internal Revenue for use as site of the proposed Revenue Region No. 4 Building and the offices under its jurisdiction was passed and approved as Ordinance No. 652. Furthermore, special session of the said Sanggunian was held on July 6, 2015 to amend Section 1(2) of Ordinance No. 652 particularly forming a team/committee that will oversee the smooth transition and transfer of the donee`s operation from its present location to the new site. Hereunder is the technical description of the said parcel of land:

> *A parcel of land (Lot 3743-A-1 of the subdivision plan Psd-03-211422, being a portion of Lot 3742-A (LRC) Psd-179025 L.R.C. Rec No.) situated in Barangay Sindalan, City of San Fernando, Province of Pampanga, Island of Luzon. Bounded on the SE., and SW along line 1-2-3 by lot 3743-A-2 of the subdivision plan; on the NW., along line 3-4 by lot 3743-C; along line 4-5 by lot 3742-B both of (LRC) Psd-179025; on the NE., along line 5-1 by lot 3742-B both of (LRC) Psd-179025; on the NE., along line 5-1 by lot 3744 San Fernando Cadastre Provincial Road. Beginning at a point marked "1" on plan being S.37 deg. 14'E., 404.58m. from BBM No. 51, San Fernando Cadastre.*
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> *Thence S. 56 deg. 17'W., 243.10 m. to point 2;*
> *Thence N. 40 deg. 12'W., 41.40 m. to point 3;*
> *Thence N. 56 deg. 17'E., 92.13 m. to point 4;*
> *Thence N. 56 deg. 17'E., 150.97 m. to point 5;*
> *Thence S. 40 deg. 12'E., 41.40 m. to point of*

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beginning containing an area of Ten Thousand (10,000) square meters more or less. All points referred to are indicated on the plan and are marked on the ground by PS cyl. Conc. Mons. 15 x 40 cms. and pts. 4, 5 by old BL cyl. Bearing true; date of original survey, March 1915- April 1916 and that of the subdivision survey, Oct. 31, 2014 and was approved on Nov. 7, 2014.

On July 8, 2015, a Deed of Donation was executed by and between the Province of Pampanga represented by Governor Lilia G. Pineda (donor) and BIR represented by Commissioner Kim S. Jacinto-Henares (donee), over the afore-mentioned parcel of land. The donor had offered to donate such parcel of land and the donee accepted the donation under the conditions set forth as embodied in the aforementioned Deed of Donation.

In reply, please be informed that Section 101 (A) (2) of the Tax Code of 1997, as amended, provides:

"SEC. 101. Exemption of Certain Gifts. — The following gifts or donations shall be exempt from the tax provided for in this chapter:

(A) In the Case of Gifts Made by a Resident. —

xxx xxx xxx

(2) Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government;"

xxx xxx xxx

Accordingly, donations made for the use of the National Government or any entity created by any of its agencies which is not conducted for profit or to any political subdivision of the said Government shall be exempt from the donor's tax. Considering that the donation of a parcel of land was made by the Donor in favor of the Bureau of Internal Revenue, a National Government Agency, said donation is exempt from donor's tax. (BIR Ruling No. 206-11 dated July 1, 2011)

Moreover, the aforesaid Deed of Donation is not subject to documentary stamp tax under Section 196 of the Tax Code of 1997, as amended, but only to the documentary stamp tax of P15.00 on certification under Section 188 of the same Code. (BIR Ruling No. 283-2012 dated April 25, 2012)

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,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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