REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 66 of Republic Act No. 6657.
BIR Ruling No. 012-01.
#363-2017 8-9-2017

PONCIANO R. DE GUZMAN
FLORDELIZA DG. SAN JUAN
LAURA DG. MENDOZA
Burol 1st, Balagtas, Bulacan

Gentlemen:

This refers to your undated letter duly endorsed by the Regional Director of Revenue Region No. 5- Caloocan, requesting that the disturbance compensation in the form of a parcel of land made in favor of Ponciano R. De Guzman, Flordeliza DG. San Juan and Laura DG. Mendoza (referred hereinafter as the "tenants") be exempt from capital gains tax (CGT) and documentary stamp tax (DST).

It is represented that Elvira de Castro Weiss, Reynaldo de Castro, Angelita Valdes and Erlinda Claridades (referred to herein as the "landowners"), are the registered owners of a parcel of land with an area of Fifty Two Thousand Nine Hundred One (52,901) sq. m., located in Burol 1st, Balagtas, Bulacan, and covered by Transfer Certificate of Title (TCT) No. (M) of the Registry of Deeds for Meycauayan Branch; that on April 4, 2011, a Deed of Assignment was executed by and between the landowners and the tenants whereby the former transferred and conveyed by way of disturbance compensation to the latter a portion of the above property, specifically an area of Three Thousand Eight Hundred Fifty Three (3,853) sq. m.; and that the Department of Agrarian Reform (DAR)- Municipal Agrarian Reform Office (MARO) of Balagtas, Bulacan issued Certifications that portions of the land covered by TCT No.) were verified as disturbance compensation for tenant Flordeliza DG. San Juan (1,500 sq. m.), Ponciano R. De Guzman (379 sq. m.) and Laura DG. Mendoza (1,500 sq. m).

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 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*

W.

#363-2017
8-9-2017

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."

It should be 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 or purposes. 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.

It is noted, however, that based on the Certification of Retention issued on June 26, 2014 by the Provincial Agrarian Reform Office (PARO), the lot covered by TCT No. , with an area of 5.2901 hectares, is the retention area granted to the Landowners pursuant to the latter's right of retention on agricultural land/s covered by the Comprehensive Agrarian Reform Program (CARP) as provided under Section 6 of RA No. 6657, as amended. Being a retention area, said lot is outside the coverage of PD No. 27 and RA No. 6657. Moreover, disturbance compensation is allowed only when the land use is converted from agricultural into non-agricultural uses pursuant to Section 36 of RA No. 3844. The giving out of disturbance compensation in the form of land for any other reason is not covered by our agrarian laws. In the absence of any proof showing that the subject parcel of land has been converted into non-agricultural uses, the transfer of the same by way of disturbance compensation is not covered by RA No. 6657.

Accordingly, the transfer of the subject parcel of land in favor of Flordeliza DG. San Juan, Ponciano R. De Guzman and Laura DG. Mendoza, is not within the ambit of RA No. 6657 and, thus, subject to the capital gains tax and documentary stamp tax.

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

008522

K1-JHB