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

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| Sec. 85, Tax Code | 000-00 | OT-341-2021 |

Person to Contact: Chief, Law & Legislative Division
Tel Nos. 926-55-36/927-09-63

Date: 30 2021

**MR. EDDIE DJ. COYOCA**
Lot 2 A-7 Casa Mila 1 Pamatawan
Subic, Zambales

Dear Mr. Coyoca,

This refers to your request filed on behalf of **JOSEFINA and RIZALINA AGUILLON** ("Aguillon sisters") dated May 26, 2021 requesting for assistance relative to the issuance of an electronic Certificate Authorizing Registration (e-CAR) and exemption from the requirement of submission of Extrajudicial Settlement of Estate.

**Background:**

1. Gil Raguine ("Gil") was the absolute owner, in actual possession, and occupant of a piece of patent free rice land covered by Original Certificate of Title (OCT) No. situated in Brgy. Cabangaran, Castillejos, Zambales, with an area of 2.4310 hectares, more or less ("Subject Property").

2. Sometime in 1981, Gil allegedly mortgaged the Subject Property in favor of his father, Faustino Raguine ("Faustino").

3. On October 28, 1991, the Provincial Assessor of Zambales certified that their records show that the Subject Property was declared in the name of Faustino in 1985.

4. After Gil passed away, the Subject Property was mortgaged by Faustino in favor of the Aguillon sisters initially for the amount of Ten Thousand Pesos (₱10,000.00), and later on for an additional amount of Nine Thousand Pesos (₱9,000.00). No document proving said transactions were produced since the houses of both parties were affected by the eruption of Mount Pinatubo.

5. On November 14, 1991, Faustino paid the transfer tax fee as shown by the Zambales Office of Treasurer Official Receipt (OR) No. nd a Certification on even date upon the request of Faustino.

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6. On November 19, 1991, Faustino executed the following:

    a) Deed of Renunciation and Quitclaim waiving, renouncing, quitclaiming, relinquishing share and participation and interest over the Subject Property in favor of the Aguillon sisters;

    b) Affidavit of Non-Tenancy declaring that the Subject Property is not tenanted or leased to any agricultural lessee since October 21, 1972 for the purpose of requesting the Provincial Agrarian Reform Office in Iba, Zambales to register the Subject Property in the Register of Deeds of Zambales; and

    c) Affidavit of Transferor that the Subject Property is not covered by the Comprehensive Agrarian Reform Program (CARP).

7. The Aguillon sisters have been paying the real property tax since 1991 to present.

8. On December 20, 1991, the Agrarian Reform Office of Balili, Iba, Zambales issued a Certification that the Subject Property is a retention area of the vendor, Faustino, for purposes of the Deed of Renunciation and Quitclaim with the Register of Deeds.

9. It is alleged that Gil and Faustino died without issue, hence, no Extrajudicial Settlement of the deceased Faustino was executed.

In reply, please be informed that Articles 985, 986, and 987 of the Civil Code of the Philippines provide as follows:

> *"**ART. 985.** In default of legitimate children and descendants of the deceased, his parents and ascendants shall inherit from him, to the exclusion of collateral relatives.*
>
> ***ART. 986.** The father and mother, if living, shall inherit in equal shares.*
>
> *Should one only of them survive, he or she shall succeed to the entire estate of the child."*

Based on the foregoing provisions, assuming that indeed Faustino died without any descendants, his parents, or in this case, Faustino alone is called to succeed his son, Gil, who predeceased him, by operation of law. He therefore inherits the properties left by his son, Gil. Since Faustino also died without issue, the requirement of presentation of the Extrajudicial Settlement of Estate in the instant case could not have been complied with since there were no heirs to execute the same.

Moreover, Section 85 of the National Internal Revenue Code of 1997 (Tax Code), as amended, states:

> *"**SEC. 85. Gross Estate.** - The value of the gross estate of the decedent shall be determined by including the value at the time*

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> *of his death of all properties, real or personal, tangible or intangible, wherever situated to the extent of any interest therein . . .”*

Thus, all properties to which the decedent had interest at the time of his death shall be considered as forming part of his gross estate. This simply implies that properties over which the decedent had relinquished his right of ownership thereto prior to his death shall no longer be included in his gross estate, subject to certain exceptions on transfers made in contemplation of death which are not applicable in this case.

In this case, pieces of evidence were presented by the Aguillon sisters to prove that the Subject Property was already transferred to them by Faustino during his lifetime including the Deed of Renunciation and Quitclaim, Assessor's certification that the Subject Property is declared in the name of Faustino, proof of payment of the transfer tax fee by the decedent, Affidavit of Non-Tenancy and Affidavit that the Subject Property is not covered by CARP both executed by the decedent, certification by the Agrarian Reform Office that the Subject Property is a retention area of Faustino, and the Tax Declaration under the name of the Aguillon sisters. In order to support the claim that Gil and Faustino died without an heir, an affidavit to this effect must also be submitted.

In the matter of issuing the e-CAR, please note that a Tax Clearance (TCL) or Certificate Authorizing Registration (CAR) is issued by the BIR only to certify that taxes (capital gains tax, documentary stamp tax, creditable withholding tax and certification fees) applicable to the transfer of registrable property have been paid. It is a mandatory requirement for the registration of the real property in favor of the transferee as mandated under Section 58 (E) of the Tax Code, as amended. Therefore, a TCL or CAR is not a proof of ownership. Rather, it is issued by the BIR to certify that the appropriate taxes on the transaction have been duly paid.

IN VIEW OF ALL THE FOREGOING, the CAR/tax clearance certificate for the Subject Property in the name of the Aguillon sisters may be issued by the concerned Revenue District Office, if indeed the capital gains and documentary stamp taxes due on the said transaction were already paid subject to the presentation of an Affidavit of Two Disinterested Persons stating that Gil and Faustino died without issue. This affidavit shall be in lieu of the required Extrajudicial Settlement of Estate.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained 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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