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

Section 66, RA No. 6657
BIR Ruling No. 009-16
#362-2017

8-9-2017

FRANDO LAW OFFICE
Calauan, Laguna

Attention: **ATTY. EUSTACIA V. FRANDO**

Madam:

This refers to your letter dated September 30, 2015 requesting exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the Deed of Absolute Sale executed by Amelia Villamater in favor of the Heirs of Margarita Fabro, namely, Leonardo Fabro, Teodoro Fabro, Milo Fabro, Marieta Fabro, Nolasco Fabro, Moises Fabro, and Allan Fabro, over a portion of land, particularly an area of Three Thousand Three Hundred Ninety Seven (3,397) square meters covered by Transfer Certificate of Title (TCT) No. conveyed as disturbance compensation under Republic Act (RA) 3844, as amended by RA 6389.

Documents submitted disclosed that Amelia Villamater is the registered owner of a parcel of land, particularly described as follows:

TCT No.

> *"A PARCEL OF LAND (LOT 1-B-176-B OF THE SUBDIVISION PLAN PSD-21767, BEING A PORTION OF LOT 1-B-176 DESCRIBED ON PLAN PSD-17092, G.L.R.O. RECORD NO. 1201) SITUATED IN THE BARRIO OF MABACAN, MUNICIPALITY OF CALAUAN, PROVINCE OF LAGUNA. . . . CONTAINING AN AREA OF THIRTY SIX THOUSAND NINE HUNDRED TWENTY TWO (36,922) SQUARE METERS. . . ."*

that the Deed of Absolute Sale dated March 7, 2015 executed by Amelia Villamater in favor of MANADA PROPERTY HOLDINGS, INC. conveying Thirty Three Thousand Five Hundred Twenty Five (33,525) square meter portion of the above described property also provides that the remaining portion consisting of Three Thousand Three Hundred Ninety Seven (3,397) square meters shall be in the name of the HEIRS OF MARGARITA FABRO as disturbance compensation; that per Certification dated March 17, 2015 issued by the OIC-Provincial Agrarian Reform Program Officer (PARPO), Margarita Fabro is the tenant to a parcel of agricultural landholding covered by Transfer Certificate of Title (TCT) No. , based on a "Resolution" issued by the Provincial Agrarian Reform Adjudicator (PARAD) of Laguna in the DARAB Case No. dated March 25, 2009; and that pursuant to the same Certification, it was certified that portion of the above-described property was given to said tenant as disturbance compensation with an area of Three Thousand Three Hundred Ninety Seven (3,397) square meters.

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 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."*

Moreover, Section 36 (1) of RA 3844, as amended by Section 7 of RA 6389, allows disturbance compensation to the tenant as a result of extinguishment of tenancy relationship by reason of the reclassification or conversion of the agricultural land into non-agricultural land, 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 judgment that is final and executory if after due hearing it is shown that:*
>
> > *"(1) The landholding is declared by the department head upon recommendation of the National Planning Commission to be suited for residential, commercial, industrial or some other urban purposes: Provided, That the agricultural lessee shall be entitled to disturbance compensation equivalent to five times the average of the gross harvests on his landholding during the last five preceding calendar years;"*

Only Section 35 of RA 3844 was expressly repealed by RA 6657. Hence, disturbance compensation given to a tenant pursuant to Section 36 of RA 3844, as amended by RA 6389, is still considered one of the transactions contemplated under Section 66 of RA 6657.

However, documents submitted failed to prove that the disturbance compensation received by the Heirs of Margarita Fabro was a result of extinguishment of tenancy relationship because of the reclassification or conversion of the agricultural land into residential, commercial, industrial or some other urban purposes, pursuant to Section 36 of RA 3844, as amended by RA 6389. Also, based on the Certification issued by the Provincial Agrarian Reform Officer (PARO), the lot covered by TCT No. , with an area of Thirty Six Thousand Nine Hundred Twenty Two (36,922) square meters, is the retention area granted to Amelia Villamater 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. Being a retention area, said lot is outside the coverage of PD No. 27 and RA No. 6657. Such being the case, the transfer of the subject parcel of land in favor of the Heirs of Margarita Fabro is subject to capital gains tax and documentary stamp tax.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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