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

RA 6657
BIR Ruling No. 009-16
#531-2017

11-17-2017

EPIFANIO ESPINO, JR.
137 Washington St., Merville Vill
Paranaque, Metro, Manila

Sir:

This refers to the 2nd Indorsement of Revenue Revenue No. 5-Caloocan City dated October 16, 2014 relative to the request for confirmation that the disturbance compensation in the form of land granted to Magdalena Guinto Garcia et al. is exempt from taxes and all other fees.

Documents submitted disclose that Buenaventura Espino, Yolanda Espino, Belen Silverio, Joselito Espino and Epifanio Espino, Jr. (hereinafter referred to as Landowners) are the registered owners of a parcel of land, identified as Lot 4354-A of the subdivision plan (LRA) approved as a non-subdivision project, being a portion of CAD. 345, Pulilan Cadastre, L.R.C. Record No. H. Patent covered by Transfer Certificate of Title (TCT) No. which is issued by the Registry of Deeds for the Province of Bulacan (Guiguinto). The aforesaid property is situated at Brgy. Penabatan, Pulilan, Bulacan with an area of Eleven Thousand Five Hundred Ninety Four square meters (11,594 sq.m.), more or less. On November 25, 2013, a Deed of Assignment was executed, whereby the landowners thru their Attorney-in-Fact, Epifanio Espino, Jr. transferred and conveyed, by way of disturbance compensation, to Magdalena Guinto Garcia, Lino R. Guinto, Joven R. Guinto, Romualdo C. Guinto, Josephine Guinto Tayao and Anthonela Guinto Garcia the above-mentioned property, as a result of the extinguishment of tenancy relationship between the parties. Certification dated November 27, 2013 was issued by Municipal Agrarian Reform Office (MARO) of Pulilan, Calumpit and Plaridel, stating that the Eleven Thousand Five Hundred Ninety Four square meters (11,594 sq.m.) covered by TCT No. portion of TCT No. with an area of 28,985 sq.m.) is actually a disturbance compensation under Section 66 of Republic Act (RA) No. 6657.

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 uses or purposes, 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:
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> > "(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, the documents submitted failed to prove that the disturbance compensation received by Magdalena Guinto Garcia et al. 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. Such being the case, the transfer of the subject parcel of land in favor of Magdalena Guinto Garcia et al. is not within the ambit of RA No. 6657 and, thus, subject to the capital gains tax and documentary stamp tax. *(BIR Ruling No. 009-2016 dated January 18, 2016)*

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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