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

Section 66, Republic Act (RA) No. 6657
BIR Ruling No. 393-2016

JOSE D. MARIANO
Parulan, Plaridel, Bulacan

Sir:

This refers to your letter dated August 05, 2016 requesting exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) pursuant to Republic Act (RA) 3844, as amended by RA 6389.

Based on the documents submitted, it shows that Pedro Vergel de Dios, Carmencita Vergel de Dios, Cecilia Vergel de Dios, Felix Vergel de Dios, Jr., and Fernando Vergel de Dios, are the registered owners of a parcel of land, covered by Transfer Certificate of Title (TCT) No. containing an area of Twenty-One Thousand Nine Hundred Seventy-Two (21,972) sq. meters, more or less; that the said property was divided into three (3) lots under Psd-424674, as follows:

a. Lot 3375-A-1 with an area of Fifteen Thousand Two Hundred Thirty-Two (15,232) square meters, more or less;

b. Lot 3375-A-2 with an area of Six Thousand (6,000) square meters, more or less; and

c. Lot 3375-A-3 with an area of Seven Hundred Forty (740) square meters, more or less;

that on December 20, 2012, Carmencita Vergel de Dios, Pedro Vergel de Dios, Cecilia Vergel de Dios, Felix Vergel de Dios, Jr., and Fernando Vergel de Dios, represented by their Attorney-in-Fact, Rico Ramon Vergel de Dios Pagkalinawan, executed a "Kasulatan Ng Paglilipat Bilang Disturbance Compensation" in favor of you, over Lot 3375-A-2, covered by TCT No. containing an area of Six Thousand (6,000) square meters, more or less; that on January 04, 2016, the Department of Agrarian Reform issued a Certification manifesting no objection to the registration of the above-mentioned "Kasulatan Ng Paglilipat Bilang Disturbance Compensation"; and that on February 12, 2016, the Department of Agrarian Reform issued another Certification stating that you are the agricultural lessee over a parcel of land covered by TCT No. No.

In reply, please be informed that transfers of real property by way of Disturbance Compensation is exempt from CGT and DST 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, 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 due to the extinguishment of tenancy relationship by reason of the reclassification or conversion of the agricultural land into non-agricultural uses, 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 you received 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 parcel of land covered by TCT No. No. containing an area of Six Thousand (6,000) square meters, more or less, in favor of Jose D. Mariano is not within the ambit of RA No. 6657 and, thus, subject to CGT and DST. *(BIR Ruling 393-2016 dated November 21, 2016)*

Please be guided accordingly.

Very truly yours,

Celia C. King

CELIA C. KING
Deputy Commissioner
Resource Management Group
Officer-In-Charge

CAESAR R. DULAY
Commissioner of Internal Revenue

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COPY FURNISHED:

REVENUE REGION NO. 05 – Caloocan City
Attention: Revenue District Office No. 25A – Plaridel, Bulacan