



Bangko Sentral ng Pilipinas

OFFICE OF THE DEPUTY GOVERNOR SUPERVISION AND EXAMINATION SECTOR

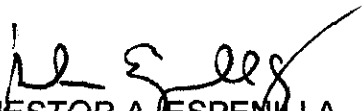
CIRCULAR LETTER NO. CL-2010-020

To : ALL BANKS AND NON-BANK FINANCIAL
INSTITUTIONS WITH QUASI-BANKING FUNCTIONS

Subject : IMPLEMENTING RULES AND REGULATIONS FOR
ARTICLES 60 AND 61 OF THE PHILIPPINE
COOPERATIVE CODE OF 2008 (REPUBLIC ACT 9520)

Relative to the provisions of Article 60 (Tax Treatment of Cooperatives) and Article 61 (Tax and Other Exemptions) of Republic Act 9520 otherwise known as the Philippine Cooperative Code of 2008, attached is a copy of the Joint Implementing Rules and Regulations signed by the Department of Finance, the Bureau of Internal Revenue and the Cooperative Development Authority.

Please be guided accordingly.


NESTOR A. ESPENILLA, JR.
Deputy Governor

23 March 2010

PANANALAPING MATATAG, BANSANG PANATAG



Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

5 February 2010

JOINT RULES AND REGULATIONS IMPLEMENTING ARTICLES 60, 61 AND 144 OF REPUBLIC ACT NO. 9520, OTHERWISE KNOWN AS THE "PHILIPPINE COOPERATIVE CODE OF 2008" IN RELATION TO RA NO. 8424 OR THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

SECTION 1. SCOPE. – Pursuant to the provisions of Sections 4 and 244 of the National Internal Revenue Code of 1997 (NIRC), as Amended, and Article 144 of RA 9520, this Joint Rules and Regulations are hereby promulgated to implement Articles 60 and 61 of RA No. 9520 granting tax exemption to cooperatives, prescribe the guidelines for the availment thereof and for other purposes.

SECTION 2. CONSTRUCTION. – The provisions of this Joint Rules and Regulations shall be construed and applied in accordance with and in furtherance of the declared policy, concepts, and principles enunciated under Articles 2, 3, and 4 of RA 9520, without prejudice to the provisions of Section 4 of the NIRC, as Amended.

In case of conflict or ambiguity which may arise in the implementation of this Joint Regulations or in case there is any doubt as to the meaning of any provision of this regulation or any other regulation issued in pursuance to RA 9520, the same shall be resolved and construed liberally in favor of the cooperatives and their members as provided for in Article 142 of RA 9520.

SECTION 3. DEFINITION OF TERMS.

- a) **Accumulated Reserves** – refers to the accumulated amount of money annually deducted from the net surplus, which shall be less than fifty (50%) for the first five years of operation after registration and at least ten per centum (10%) of the net surplus thereafter, intended not for the allocation or distribution to the members but for the protection and stability of the cooperative, commonly referred to as the Reserve Fund.
- b) **Bureau of Internal Revenue** – refers to the government agency entrusted with the power to assess and collect all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties and fines connected therewith, hereinafter referred to as the BIR.
- c) **Business Transaction** – refers to any business activity or livelihood engaged in by the cooperative where such cooperative generates savings.
- d) **Capital Assets** – refers to the property held by the taxpayer (whether or not connected with trade or business), but does not include stock in trade of the

taxpayer or other property of a kind which would properly be included in inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation.

e) **Certificate of Good Standing** -- refers to the certificate issued annually by the CDA to cooperatives which comply with the requirements provided in CDA-Memorandum Circular No. 2008-03, and any subsequent amendments thereto.

For internal revenue tax purposes, said Certificate of Good Standing is one of the essential requirements for the grant of the Certificate of Tax Exemption/Ruling provided for in the next paragraph.

f) **Certificate of Tax Exemption/Ruling** -- refers to the certificate/ruling issued by BIR granting exemption to a cooperative, which is valid for a period of five (5) years from the date of issue.

g) **Cooperative** -- refers to an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

h) **Cooperative Development Authority** -- refers to the government agency created under R.A. 6939 mandated to register, regulate and develop cooperatives, hereinafter referred to as the CDA.

i) **Interest on Share Capital** -- refers to the interest earned by the member's paid-up to the capitalization of the cooperative. It is based on the average share capital contribution of members computed on a per month basis against the pre-set amount earmarked by the board of directors for interest on share capital.

j) **Patronage Refund** -- refers to the refund or return to the members of net savings generated from the operations of the cooperative.

k) **Registration** -- refers to the operative act granting juridical personality to a proposed cooperative as evidenced by a Certificate of Registration issued by the CDA.

l) **Related operations/transactions** -- refers to transactions of cooperatives which are part of the objectives and purposes as enumerated in the Articles of Cooperation.

m) **Transaction with members** – refers to the cooperative activity that provides goods and services to members where the cooperative generates net savings/surplus.

n) **Transaction with non-members** – refers to the cooperative activity that provides goods and services to non-members where the cooperative generates net savings/surplus.

o) **Undivided Net Surplus/ Undivided Net Savings** – refers to the net amount arising from the operations of the cooperative after deducting the operational expenses from revenue generated, not construed as profits, but as excess of payments made by the members for the loans borrowed or the goods and services bought from the cooperative including other inflows of assets resulting from its other operating activities and which shall be deemed to have been returned to them if the same is distributed as prescribed in accordance with Article 86 of RA 9520 and the by-laws of the cooperative.

p) **Unrelated Transactions** – refers to transactions of cooperatives which are not part of the objectives and purposes as enumerated in the Articles of Cooperation.

SECTION 4. TYPES OF COOPERATIVES. – A cooperative may fall under any of the following types:

a) **Credit Cooperative** – is one that promotes and undertakes savings and lending services among its members. It generates a common pool of funds in order to provide financial assistance and other related financial services to its members for productive and provident purposes;

b) **Consumer's Cooperative** – is one the primary purpose of which is to procure and distribute commodities to members and non-members;

c) **Producer's Cooperative** – is one that undertakes a joint production whether agricultural or industrial. It is formed and operated by its members to undertake the production and processing of raw materials or goods produced by its members into finished or processed products for sale by the cooperative to its members and non-members. Any end product or its derivative arising from the raw materials produced by its members, sold in the name and for the account of the cooperative, shall be deemed a product of the cooperative and its members;

d) **Marketing Cooperative** – is one which engages in the supply of production inputs to members and markets their products;

e) **Service Cooperative** – is one which engages in medical and dental care, hospitalization, transportation, insurance, housing, labor, electric light and power, communication, professional and other services;

- f) **Multipurpose Cooperative** – is one which combines two (2) or more of the business activities of these different types of cooperatives;
- g) **Advocacy Cooperative** – is a primary cooperative which promotes and advocates cooperativism among its members and the public through socially-oriented projects, education and training, research and communication, and other similar activities to reach out to its intended beneficiaries;
- h) **Agrarian Reform Cooperative** – is one organized by marginal farmers majority of which are agrarian reform beneficiaries for the purpose of developing an appropriate system of land tenure, land development, land consolidation or land management in areas covered by agrarian reform;
- i) **Cooperative Bank** – is one organized for the primary purpose of providing a wide range of financial services to cooperatives and their members;
- j) **Dairy Cooperative** – is one whose members are engaged in the production of fresh milk which may be processed and/or marketed as dairy products;
- k) **Education Cooperative** – is one organized for the primary purpose of owning and operating licensed educational institutions, notwithstanding the provisions of Republic Act No. 9155, otherwise known as the Governance of Basic Education Act of 2001;
- l) **Electric Cooperative** – is one organized for the primary purpose of undertaking power generation, utilizing renewable energy sources, including hybrid systems, acquisition and operation of sub-transmission or distribution to its household members;
- m) **Financial Service Cooperative** – is one organized for the primary purpose of engaging in savings and credit services and other financial services;
- n) **Fishermen Cooperative** – is one organized by marginalized fishermen in localities whose products are marketed either as fresh or processed products;
- o) **Health Services Cooperative** – is one organized for the primary purpose of providing medical, dental and other health services;
- p) **Housing Cooperative** – is one organized to assist or provide access to housing for the benefit of its regular members who actively participate in the savings program for housing. It is co-owned and controlled by its members;
- q) **Insurance Cooperative** – is one engaged in the business of insuring life and property of cooperatives and their members;

r) **Transport Cooperative** – is one which includes land and sea transportation, limited to small vessels, as defined or classified under the Philippine maritime laws, organized under the provisions of this Code.

s) **Water Service Cooperative** – is one organized to own, operate and manage water systems for the provision and distribution of potable water for its members and their households;

t) **Worker's Cooperative** – is one organized by workers, including the self-employed, who are at the same time the members and owners of the enterprise. Its principal purpose is to provide employment and business opportunities to its members and manage it in accordance with cooperative principles; and

u) **Other types of cooperative** as may be determined by the CDA.

SECTION 5. CATEGORIES OF COOPERATIVES. – Cooperatives shall be categorized according to membership and territorial consideration as follows:

a) In terms of Membership-Cooperative shall be categorized into:

a.1) Primary – The members of which are natural persons;

a.2) Secondary – The members of which are primaries; and

a.3) Tertiary – The members of which are secondary cooperatives;

b) In terms of Territory – Cooperatives shall be categorized according to areas of operations which may or may not coincide with the political subdivisions of the country.

SECTION 6. CLASSIFICATION OF COOPERATIVES ACCORDING TO THE EXTENT OF THE TAX EXEMPTIONS GRANTED.

a) Those duly registered cooperatives which transact business with members only; and

b) Those duly registered cooperative which transact business with both members and non-members which are further sub-classified according to the following:

b.1) Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (Php10,000,000.00); and

b.2) Cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (Php10,000,000.00).

SECTION 7. TAX EXEMPTIONS OF DULY REGISTERED COOPERATIVES WHICH TRANSACT BUSINESS WITH MEMBERS ONLY. – Duly registered cooperatives dealing/transacting business with members only shall be exempt from paying any taxes and fees, including but not limited to:

- a) Income Tax imposed by Title II of the NIRC, as amended;
- b) Value-Added Tax (VAT) imposed under Title IV of the NIRC, as amended;
- c) Percentage Tax imposed under Title V of the NIRC, as amended;
- d) Donor's Tax imposed under Title III of the NIRC, as amended, on donations to duly accredited charitable research and educational institutions and reinvestment to socio-economic projects within the area of operation of the cooperatives;
- e) Excise Tax under Title VI of the NIRC, as amended, for which it is directly liable;
- f) Documentary Stamp Tax imposed under Title VII of the NIRC, as amended, provided, however, that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax;
- g) Annual Registration Fee of P500.00 under Section 236(B) of the NIRC, as amended;
- h) All taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system; and
- i) Electric cooperatives duly registered with the Authority shall be exempt from VAT on revenues on systems loss and VAT on revenues on distribution, supply, metering and lifeline subsidy of electricity to their members.

SECTION 8. TAXABILITY/EXEMPTION OF DULY REGISTERED COOPERATIVES WHICH TRANSACT BUSINESS WITH MEMBERS AND NON-MEMBERS.

- a) Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million (Php10,000,000.00) – Exemption from all national internal revenue taxes for which these cooperatives are liable as enumerated under Section 7 of this Joint Rules and Regulations.
- b) Cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (Php10,000,000.00) –
 - b.1) Business transactions with members – Business activities engaged in by such cooperatives with its members where said cooperative generates revenues shall be exempt from all national internal revenue

taxes for which it is liable as enumerated in Section 7 of this Joint Rules and Regulations;

b.2) Business transactions with non-members – Cooperatives with accumulated reserves and undivided net savings of more than Php 10,000,000.00 which transact with non-members shall:

b.2.1) Pay the following taxes at the full rate:

b.2.1.1) Income Tax – On the amount allocated for interest on capitals: *Provided*, That the same tax is not consequently imposed on interest individually received by the members. The tax base for all cooperatives liable to income tax shall be the net surplus arising from the business transactions with non-members after deducting the amounts for the statutory reserve funds as provided for in the Cooperative Code and other laws.

b.2.1.2) Value Added Tax (VAT) – On transactions with non-members: *Provided, however*, That cooperatives, pursuant to Section 109, par. (L),(M) and (N) of the NIRC, as amended by RA 9337, shall be exempt from the imposition of VAT, namely the following:

i. Sales by agricultural cooperatives duly registered and in good standing with the CDA to their members, as well as sale of their produce, whether in its original state or processed form, to non-members, their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce (Sec.109 (1)(L) of the NIRC, as amended).

Provided, further, That the exempt transactions pursuant to the above shall include sales made by a duly registered agricultural cooperative organized and operated by its members to undertake the production and processing of raw materials or of goods produced by its members into finished or processed products for sale by said cooperative to its members and non-members: *Provided, finally*, That any processed product or its derivative arising from the raw materials produced by its members, sold in the name and for the account of the cooperative, shall be deemed the product of the cooperative.

Sale by agricultural cooperatives to non-members can only be exempted from VAT if the producer of the agricultural products sold is the cooperative itself. If the cooperative is not the producer (e.g., trader), only those sales to its members shall be exempted from VAT.

Exempt transactions shall include sales made by a duly registered agricultural cooperative organized and operated by its members to undertake the production and processing of raw materials or of goods produced by its members into finished or processed products for sale by said cooperative to its members and non-members.

Products produced/processed by non-members or production not related to the purposes for which a cooperative is created as stated in its Articles of Cooperation even if sold in the name of said cooperative shall not be considered as produced/processed by said cooperative. To illustrate, raw materials produced by the members and processed by the cooperative shall be exempt from VAT.

It is to be reiterated however, that sale or importation of agricultural food products in their original state is exempt from VAT irrespective of the seller and buyer thereof, pursuant to Section 4.109-1 (B) (a) of Revenue Regulations No. 16-05, as amended.

ii. Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the CDA (Sec. 109 (1) (M) of the NIRC, as amended); or

iii. Sales by non-agricultural, non-electric and non-credit cooperatives duly registered with the CDA: *Provided*, That the share capital contribution of each member does not exceed fifteen thousand pesos (P15,000) and regardless of the aggregate capital and net surplus ratably distributed among members (Sec. 109(1) (N) of the NIRC, as amended); or

iv. Transactions of cooperatives as may be deemed VAT-exempt under the NIRC.

b.2.1.3) Percentage Tax – all sales of goods and/or services rendered to non-members shall be subject to the applicable percentage taxes imposed by Title V of the NIRC, as amended, except sales made by producers, marketing or service cooperatives;

b.2.1.4) All other Internal Revenue Taxes unless otherwise provided by the law; and

b.2.2) Be entitled to limited or full deductibility of donations to duly accredited charitable, research and educational institutions and

reinvestment to socio-economic projects within the area of operation of such cooperative.

b.2.3) Pursuant to Article 61(3) be entitled to an exemption on taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system.

SECTION 9. TAXABILITY OF UNRELATED INCOME OF COOPERATIVE.

– Notwithstanding the foregoing, all income of cooperatives not related to the main/principal business/es under its Articles of Cooperation shall be subject to all the appropriate taxes under the NIRC, as amended. This is applicable to all types of cooperatives whether dealing purely with members or both members and non-members.

SECTION 10. TAXABILITY OF COOPERATIVES TO OTHER INTERNAL REVENUE TAXES. – All cooperatives, regardless of classification shall be subject to:

- a) Capital Gains Tax from sale of shares of stock or sale, exchange or other disposition of real property classified as capital assets;
- b) Documentary stamp taxes on transactions of cooperatives dealing with non-members, except transactions with banks and insurance companies, Provided that whenever one party to the taxable document enjoys the exemption from DST, the other party who is not exempt shall be the one directly liable for the tax;
- c) VAT billed on purchases of goods and services, except the VAT on the importation by agricultural cooperatives of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce, pursuant to Section 109(L) of the NIRC, as amended. All tax free importations shall not be transferred to any person until five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the tax and/or the duties thereon;
- d) Withholding tax on compensation/wages, except in the case where an employee is a minimum wage earner; and creditable and final withholding taxes, if applicable. All cooperatives, regardless of classification, are considered as withholding agents on all income payments that are subject to withholding pursuant to the provisions of Revenue Regulations No. 2-98, as amended; and
- e) All other taxes for which cooperatives are directly liable and not otherwise expressly exempted by any law.

SECTION 11. TAXABILITY OF MEMBERS/SHARE HOLDERS OF COOPERATIVES. – All members of cooperatives shall be liable to pay all the necessary internal revenue taxes under the NIRC, as amended, except for the following:

- a) Any tax ^{and} fee, including but not limited to final tax on member's deposits ^{for} fixed deposits (otherwise known as share capital) with cooperatives; and documentary tax on transactions of members with the cooperative; and
- b) Patronage Refund which includes all refunds, returns or rebates of the net savings generated from the operation of the cooperative.

SECTION 12. CERTIFICATE OF TAX EXEMPTION/RULING. – All cooperatives which were issued a new certificate of registration by the CDA in compliance to Article 144 (1) of RA 9520 and subsequent new cooperatives to be registered under the same Act shall secure their certificate of tax exemption from the BIR by way of confirmatory ruling to be issued by the Regional Director or by the Assistant Commissioner of Internal Revenue (ACIR), Legal Service, as the case may be, in accordance with the delegated authority granted to them by RDAO No. 3-2009.

However, the application for Certificate of Tax Exemption of cooperatives whose accumulated reserves and undivided net savings do not exceed Ten Million Pesos (P10, 000, 000.00) shall be acted upon within forty-five (45) days upon submission of all the required documents. Otherwise the BIR officer/employee concerned may be held liable under Article 140 of RA 9520.

Such cooperatives are required to be registered with the BIR, but shall be exempt from the payment of the annual registration fee of P500.00.

SECTION 13. DOCUMENTS TO BE ATTACHED TO THE LETTER – APPLICATION FOR THE ISSUANCE OF A CERTIFICATE OF TAX EXEMPTION/RULING. – A letter-application signed by the Chairman/General Manager of a cooperative, or his duly authorized representative shall be submitted to the Revenue District Office which has jurisdiction over the principal place of business of the cooperative. Such Revenue District Office shall transmit the application for tax exemption within five (5) working days from the filing of the said letter-request accompanied by the required documentary requirements to the Legal Division of the Regional Office or the Assistant Commissioner, Legal Service, as the case may be. The letter-application shall state the type of the cooperative and the transactions engaged in with members/non-members. The following documents shall be attached to said application:

- a) A certified true copy of the Certificate of Registration issued by the CDA under the new Cooperative Code;
- b) A certified true copy of the Articles of Cooperation and By-Laws of the Cooperative.

c) A certified true copy of the current Certificate of Good Standing from CDA, effective on the date of application. No application for exemption will be processed in the absence thereof.

d) A copy of the BIR Certificate of Registration of the Cooperative.

The application for exemption by a qualified cooperative is a pre-requisite for availment of tax exemption by said cooperative. The Certificate of Tax Exemption/Ruling shall be issued only after determination by the BIR that the cooperative has complied with all the necessary documentary requirements for entitlement under RA 9520, as enumerated above.

The Certificate of Tax Exemption/Ruling must be signed by the BIR Regional Director/Assistant Commissioner, Legal Service, as the case may be, and shall be acted upon within forty-five (45) days from the date of submission of the complete documentary requirements, otherwise the BIR officer/employee concerned may be held liable under Article 140 of RA 9520.

All duly registered cooperatives under RA 9520 shall apply for a Certificate of Tax Exemption/Ruling within sixty (60) days counted from the date of issuance of certificate of registration.

Exemption from taxes herein stated shall apply to the duly-registered cooperatives on the year the certificate of tax exemption/ruling was issued. However, for the initial issuance of the Certificate of Tax Exemption/Ruling under RA 9520, the effectivity of such Certificate of Tax Exemption/Ruling issued shall commence from the year RA 9520 took effect: *Provided*, That the cooperative has registered with the CDA as provided for under Article 144 of RA 9520.

For applications for tax exemption not filed within the prescribed period, the late applicants shall be subjected to internal revenue taxes prior to the issuance of the Certificate of Tax Exemption/Ruling; however they can apply for tax credit/refund of taxes previously paid from the date of registration with the CDA up to the issuance of the Certificate of Tax Exemption/Ruling, subject to the rules and procedures for processing tax credit/refund. The BIR shall act on the request for tax refund of taxes previously paid within one hundred twenty (120) days from submission of the complete documents in support of the application filed.

SECTION 14. VALIDITY OF CERTIFICATE OF TAX EXEMPTION/RULING. – The Certificate Tax Exemption/Ruling shall be valid for a period of five (5) years from the date of issue or date of effectivity as provided under Section 13 hereof, and during such period that the Cooperative is in good standing as ascertained by the CDA on an annual basis.

A copy of the Certificate of Good Standing issued by the CDA to the cooperative shall, together with the Income Tax Return and Audited Financial Statements, be

submitted to the BIR on or before the 15th day of the fourth month (April 15) following the close of the calendar year.

SECTION 15. RENEWAL OF CERTIFICATE OF TAX EXEMPTION/RULING. – An application for renewal of Certificate of Tax Exemption shall be filed at least two (2) months prior to the date of expiration of the existing Certificate of Tax Exemption/Ruling, and should be acted upon within the period prescribed in Section 13 of this Joint Rules and Regulations. Such renewal of the Certificate of Tax Exemption/Ruling shall be for a period of five (5) years unless sooner revoked for cause.

The application for renewal of Certificate of Tax exemption shall be accompanied by the following documents:

- a) A certified true copy of the Certificate of Registration issued by the CDA under the new Cooperative Code;
- b) A certified true copy of the Articles of Cooperation and By-Laws of the Cooperative;
- c) A certified true copy of the current Certificate of Good Standing from CDA, effective on the date of application. No application for exemption will be processed in the absence thereof or submission of an expired Certificate of Good Standing;
- d) A certificate under oath by the Chairperson/General Manager whether the cooperative is transacting business with members only or both members and non-members, whichever is applicable;
- e) In case the cooperative deals with members and non-members, records of transactions clearly showing which transactions correspond to members and non-members shall be submitted in the next renewal of the said tax certificate and not in the year of registration;
- f) Certification under oath by the Chairperson or General Manager of the cooperative as to the amount of the accumulated reserves and that at least 25% of the net surplus is returned to the members in the form of interest on share capital and/or patronage refund;
- g) Certification under oath of the list of members and the share capital contribution of each member; and
- h) Latest financial statements of the immediately preceding year duly audited by an independent certified public accountant.

Should any of the above requirements involve submission of voluminous documents and/or records on the part of the cooperative, soft copies of such documents/records may be submitted in lieu of printed material. Said soft copies shall be submitted in two

(2) in CD-R or DVD-R disks, using a format such as an Adobe Acrobat (.pdf) file. The Revenue District Office shall check if the copies are identical, make distinguishing marks on both copies upon submission to ensure that the records are not tampered with/substituted, and return 1 copy to the submitting cooperative. In cases where the Revenue District Office has no CD-R/DVD-R optical drives, the copies may be submitted on floppy disks/other media subject to the distinguishing marks as stated above.

SECTION 16. EXAMINATION OF BOOKS OF ACCOUNTS AND OTHER ACCOUNTING RECORDS OF THE COOPERATIVE. – The books of accounts and accounting records of the cooperatives can be examined by the BIR for purposes of ascertaining compliance with the conditions under which they have been granted tax exemptions and their tax liabilities, if any, only after previous authorization by the CDA, which shall be released by the CDA or its Extension Office having jurisdiction over the cooperative, copy furnished the concerned cooperative, within twenty (20) days from receipt of the request from BIR.

The formal investigation shall commence upon the issuance of the letter of Authority/Letter-notice by the Commissioner or his authorized representative and the authorization from the CDA within the period prescribed above.

SECTION 17. COMPROMISE SETTLEMENT OF ANY TAX LIABILITY UNPAID BY COOPERATIVES. – Pursuant to Article 144 (2) of RA 9520, all cooperatives previously registered under RA 6938 with unpaid/unsettled assessments as of the effectivity of RA 9520 shall be qualified to avail of the compromise settlement with BIR at a compromise rate equivalent to twenty percent (20%) of the basic tax assessed. *Provided*, That if the financial position of a cooperative demonstrates a clear inability to pay the assessed tax, Section 204 (A)(2) of the NIRC, as Amended, shall apply and such shall be determined after having deducted all statutory funds required under RA 9520, such as the Reserve Fund, Educational Fund, Community Development Fund and Optional Fund. *Provided, further*, That such compromised amount may be paid in installments favorable to duly registered cooperative in cases of financial incapacity.

SECTION 18. TRANSITORY PROVISIONS. – All duly-registered cooperatives pursuant to RA 6938 are deemed registered provided that said cooperatives must submit to the nearest CDA office a copy of their valid and effective Certificate of Registration, Articles of Cooperation, By-Laws, and Audited Financial Statements within one (1) year from the effectivity of RA 9520. If a cooperative fails to follow this procedure, its registration will be cancelled *motu proprio*.

After a cooperative complies with the requirements provided in the immediately preceding paragraph, and has been given a new certificate of registration, it can proceed with securing a Certificate of Tax Exemption/Ruling from the Revenue District Office having jurisdiction over the same following the procedure provided therein.

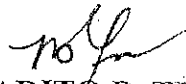
Applications for Tax Exemption pending with the BIR shall be acted upon by the concerned Regional Director having jurisdiction over the cooperative within forty-five (45) days from the effectivity of this Joint Rules and Regulations.

SECTION 19. REPEALING CLAUSE. – Revenue Regulations 13-2008, Revenue Regulations 6-2007 and Section 4.114-1 (B) and Section 4.109 (B) (1) (a) of Revenue Regulations 16-2005 are hereby repealed.

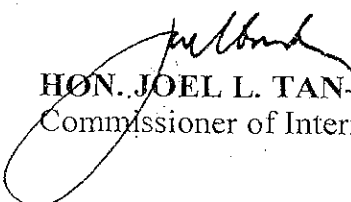
All other revenue rulings, regulations, and other issuances, which are inconsistent with the provisions of this Joint Rules and Regulations, are hereby repealed or modified accordingly.

SECTION 20. SEPARABILITY CLAUSE. – Should any part of this Joint Rules and Regulations be held unconstitutional or invalid, the validity of the remaining provisions not affected thereby shall remain in force and effect.

SECTION 21. EFFECTIVITY. – This Joint Rules and Regulations shall take effect upon its approval.


MARGARITO B. TEVES
Secretary of Finance
9751

Recommending Approval:


HON. JOEL L. TAN-TORRES
Commissioner of Internal Revenue


HON. LECIRA V. JUAREZ
Chair, Cooperative Development Authority