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

Republic Act No. 8367; Revenue Memorandum Circular No. 9-2016; Revenue Regulations 9-2004; BIR Ruling No. 466-2014
OT-0535-2020

SEP 23 2020

Alliance of Non-Stock Savings & Loan Institutions, (ANSLI) Inc.
11/F, Rm. 1111, Cityland 10, Tower 2
154 H.V. de la Costa Street
Brgy. Bel Air, Makati City 1226

Attention: **Mr. Rey David S. Lacson**
President

Gentlemen:

This refers to your letter dated November 26, 2019 requesting on behalf of Alliance of Non-Stock Savings & Loan Institutions, (ANSLI) Inc. that, a non-stock savings and loan association organized and operated exclusively for the mutual benefit of its members is exempt from the imposition of gross receipts tax (GRT) under Revenue Memorandum Circular No. 09-2016.

In reply, please be informed that Section 3 of Republic Act (RA) No. 8367 otherwise known as "*An Act Providing for the Regulation of the Organization and Operation of Non-Stock Savings and Loan Associations*" defines non-stock savings and loan associations (NSSLAs) as "a non-stock, non-profit corporation engaged in the business of accumulating the savings of its members and using such accumulations for loans to members to service the needs of households by providing long term financing for home building and development and for personal finance". The said law also provides tax exemption to NSSLAs as provided under Section 5, to wit:

> *"SECTION 5. TAX EXEMPTION. An Association shall be exempt from payment of tax in respect to income it receives, including interest on its deposits with any bank: Provided, however, That income derived from any of its properties, real or personal, or any activity conducted for profit, regardless of the disposition thereof, is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code. Interest earnings on deposits of members with Associations as well as the shares of its members from the net income of the Associations shall be exempt from income tax."*

Revenue Memorandum Circular (RMC) No. 9-2016 was issued to clarify the taxability of NSSLAs for purposes of income tax, gross receipts tax and documentary stamp tax. The said RMC provides that NSSLAs are under the direct supervision and regulation of

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the Bangko Sentral ng Pilipinas (BSP) and, for regulatory purposes, they are classified as Non-Bank Financial Intermediaries (NBFIs) under the BSP Manual of Regulations. Hence, NSSLA is generally subject to GRT on income derived from its operations, unless otherwise exempted under existing laws and/or regulations.

Relative thereto, Revenue Regulations (RR) No. 9-2004, entitled "Implementing Certain Provisions of Republic Act No. 9238, Re-Imposing the Gross Receipts Tax (GRT) on Banks and Non-Bank Financial Intermediaries Performing Quasi-Banking Functions and Other Non-Bank Financial Intermediaries Beginning January 1, 2004" defines NBFIs as follows:

> *"2.3.* ***Non-bank Financial Intermediaries*** *— shall refer to persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them or otherwise coursed through them, either for their own account or for the account of others. This includes* **all entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public** *through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates of assignment or similar instruments with recourse, trust certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally."*

Clearly, RR No. 9-2004 imposes GRT on NBFIs engaged in the lending of funds or purchasing of receivables or obligations with funds obtained from the public. RMC No. 9-2016 further clarified that NBFIs are generally subject to GRT on income derived from its operation, unless otherwise exempted under special rules.

NSSLAs must be organized and operated exclusively for the mutual benefit of its members. RA No. 8367 requires that all funds received from members are accumulated to be utilized for the common benefit of the members by providing long term financing for home building and development and for personal finance. In addition, thereto, it expressly exempts NSSLAs from payment of tax in respect to income they receive, including interest on their deposits with any bank.

Based on the foregoing, NSSLAs are subject to GRT if they are engaged in the business of being a NBFI as defined under RR No. 9-2004, that is, if the NSSLAs are obtaining funds from the public.

On the other hand, NSLLA, may be exempt from GRT if they can prove that they do not engage in activities as NBFI as defined under RR No. 9-2004. This Office, however, cannot confirm the exemption from GRT of members of ANSLI based only on the representation that its members are all non-stock savings and loan association organized pursuant to RA No. 8367.

Please bear in mind that, "being a non-stock savings and loan association does not, by this reason alone, completely exempt an institution from tax." Thus, "statutes granting tax exemptions are construed strictissimi juris against the taxpayer and liberally in favor of the taxing authority. A claim of tax exemption must be clearly shown and based on language in law too plain to be mistaken. Otherwise stated, taxation is the rule, exemption is the exception.

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The burden of proof rests upon the party claiming the exemption to prove that it is in fact covered by the exemption so claimed." *(BIR Ruling No. 466-2014 dated November 19, 2014)*

In view of the foregoing, it is incumbent upon the ANSLI members to prove by way of a confirmatory ruling that it is a non-stock savings and loan association organized pursuant to RA No. 8367 and that they are not engaged in the business of being a NBFI as defined under RR No. 9-2004, that is, they are not obtaining funds from the public, otherwise, they will be considered as NBFIs subject to GRT pursuant to RMC No. 9-2016.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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