REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act No. 8371
Republic Act No. 9520
BIR Ruling No. 156-15
OT-0417-2020
JUL 24 2020

TRIBAL TRANSPORT MULTI-PURPOSE COOPERATIVE
2nd Floor, Room 8, 678 Maya Arcade, Edsa,
Cubao, Quezon City

Attention: **BAE PRINSESA FATIMA/JOTELYN E. ADIL**
Chairwoman

Madam:

This refers to your letter dated December 8, 2017 asserting the economic right granted under Section 13 of Republic Act No. 8371 and the 1987 Constitution, which allegedly granted the Tribal Transport and Multi-Purpose Cooperative (TTMPC) exemption from government registrations and other fees, involving agriculture activities and trading, buy and sell and/or distribution of prime commodities.

It is represented that TTMPC is an indigenous cooperative engaged in the following business lines: (1) Transportation – Bus/Van/SUV/Trucks for the purpose of transporting to all Tribal Tourist Destination Nationwide; and (2) trading, buy and sell, marketing, distribution of basic and prime commodities such as but not limited to rice, corn, flour, sugar, fertilizer, lumber, steel, cements, garments, etc.

In reply, please be informed that Sec. 13 of Republic Act (RA) No. 8371, otherwise known as "***The Indigenous Peoples Rights Act of 1997***[1]", provides the following:

> "***Section 13. Self-Governance.*** *- The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development."*

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1 As an obiter dictum, Justice Puno stated that "The IPRA recognizes the existence of the indigenous cultural communities or indigenous peoples (ICCs/IPs) as a distinct sector in Philippine society. It grants these people the ownership and possession of their ancestral domains and ancestral lands, and defines the extent of these lands and domains. The ownership given is the indigenous concept of ownership under customary law which traces its origin to native title." (Cruz vs. Secretary of Environment and Natural Resources, dated Dec. 6, 2000).

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In the case of Commissioner of Internal Revenue vs. Court of Appeals[2] dated October 14, 1998, the Supreme Court stated that, *"Because taxes are the lifeblood of the nation, the Court has always applied the doctrine of strict interpretation in construing tax exemptions.[3] Furthermore, a claim of statutory exemption from taxation should be manifest and unmistakable from the language of the law on which it is based. Thus, the claimed exemption 'must expressly be granted in a statute stated in a language too clear to be mistaken[4].'"*

The economic rights mentioned in the above section is the recognition of the law that the ICCs/IPs shall freely pursue their economic, social and cultural development. However, it does not grant tax exemptions in the pursuit of such economic right. *The elementary rule in statutory construction is that if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.*[5] Therefore, your claim for tax exemption under RA No. 8371 is denied for lack of legal basis.

On the other hand, RA No. 6938, as amended by RA No. 9520[6], otherwise known as the "***Philippine Cooperative Code of 2008***", provides the following pertinent provisions, *viz*:

> *"**ART. 60. Tax Treatment of Cooperative.** - Duly registered cooperatives under this Code which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws. Cooperatives not falling under this article shall be governed by the succeeding section.*
>
> *"**ART. 61. Tax and Other Exemptions.** - Cooperatives transacting business with both members and non-members shall not be subjected to tax on their transactions with members. In relation to this, the transactions of members with the cooperative shall not be subject to any taxes and fees, including not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions:*
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> *xxx xxx xxx "*

In relation to the above provision, Section 13 of Joint Rules and Regulations implementing Articles 60, 61 and 144 of the Republic Act No. 9520, otherwise known as

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2 G.R. No. 124043.
3 Commissioner of Internal Revenue v. Court of Appeals, 271 SCRA 605, 613, April 18, 1997.
4 Davao Gulf Lumber Corporation v. Commissioner of Internal Revenue and Court of Appeals, GR No. 117359, p. 15, July 23, 1998, per Panganiban, J.
5 Camp John Hay Development Corp. vs. Central Board of Assessment Appeals, G.R. No. 169234 dated October 2, 2013.
6 Dated February 17, 2009

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the Philippine Cooperative Code of 2008 in relation to RA No. 8424 or the National Internal Revenue Code of 1997, as amended, provides that:

> "***Section 13. Documents to be Attached to the Letter.*** *— APPLICATION FOR THE ISSUANCE OF A CERTIFICATE OF TAX EXEMPTION/RULING.*
>
> *xxx xxx xxx*
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> *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.*
>
> *xxx xxx xxx"*
>
> *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.*
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> *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.*
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> *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."* (Emphasis supplied)

The foregoing provisions clearly provide that cooperatives without Certificate of Tax Exemption are subject to internal revenue taxes. However, cooperatives may 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. For the processing of the application and issuance of Certificate of Tax Exemption under RA No. 9520, please see Revenue Memorandum Order No. 076-2010 which can be found at www.bir.gov.ph.

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This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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K1-FR-18-0796

Copy furnished:

Regional Director
Revenue Region (RR) No. 07- Quezon City
Revenue District Officer
Revenue District Office No. 40- Cubao City