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

Republic Act No. 9178 (BMBE's Act of 2002);
BIR Ruling No. 397-2011; BIR Ruling No. 398-2011
CT- 368-2021
OCT 04 2021

LADDERIZED CPA REVIEW CENTER INC.
No. 2-9th Street., East Tapinac,
Olongapo City, 2200

Attention: **Mr. Mark Lord M. Bumagat**
President & CEO

Gentlemen:

This refers to your letter application and protest dated September 2, 2019 requesting for the following: (1) income tax exemption pursuant to the Barangay Micro Business Enterprises (BMBE's) of 2002; (2) clarification on the jurisdiction of application for registration on availment of tax incentives under the BMBE's Act of 2002; and (3) removal of tax type "Income Tax" on the Certificate of Registration (BIR Form 2303) issued to Ladderized CPA Review Center, Inc.

As represented, on August 07, 2019, you have requested for the issuance of a Certificate of Tax Exemption in relation with the Certificate of Authority as Barangay Micro Business Enterprise (BMBE) issued by Department of Trade and Industry (DTI) with Revenue District Office No. 18, Olongapo City. However, your request was forwarded to Revenue Region No. 4, City of San Fernando, Pampanga for appropriate action. Moreover, your request for the removal of the tax type – "Income Tax" on your Certificate of Registration (BIR Form 2303) was not granted by the Revenue District Office with a note merely on the basis of being a BMBE registered enterprise. Hence, this request.

In reply thereto, please be informed that Rule 3 (Section 3) of the Department of Finance (DOF) Department Order No. 017-04 entitled "Guidelines to Implement the Registration of Barangay Micro Business Enterprise and the Availment of Tax Incentives under R.A. 9178, otherwise known as the BMBEs Act of 2002" provides that:

"RULE 3

Guidelines in the Availment of Income Tax Exemption

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SECTION 3. Availment of Tax Incentives. — For purposes of availing of the tax incentives, the BMBE shall register as such BMBE with the BIR RDO where the principal office or place *of business of the BMBE is located. Its application for registration shall be supported by the following documents:*

xxx xxx xxx"

Such being the case, it is clear that the Revenue District Office having jurisdiction over the principal office or place of business of BMBE-registered taxpayer, and not the Revenue Region, shall process and approve an application of income tax exemption.

Moreover, Section 236(A)(C)(E) of the National Internal Revenue Code of 1997 (Tax Code), as amended, states that:

> *"SECTION 236. Registration Requirements. —*
>
> *(A) Requirements. — Every person subject to any internal revenue tax shall register once with the appropriate Revenue District Officer:*
>
> *xxx xxx xxx*
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> *(C) Registration of Each Type of Internal Revenue Tax. — Every person who is required to register with the Bureau of Internal Revenue under Subsection (A) hereof, shall register each type of internal revenue tax for which he is obligated, shall file a return and shall pay such taxes, and shall update such registration of any changes in accordance with Subsection (E) hereof.*
>
> *xxx xxx xxx*
>
> *(E) Other Updates. — Any person registered in accordance with this Section shall, whenever applicable, update his registration information with the Revenue District Office where he is registered, specifying therein any change in tax type and other taxpayer details."*

Based on the foregoing provisions, a taxpayer is required to register each type of internal revenue tax for which he is obligated and fill any, update on the registration information with the Revenue District Office where it is registered.

In as much as LADDERIZED CPA REVIEW CENTER INC. is a registered BMBE and was awarded a BMBE Certificate of Authority by the DTI, it is therefore exempt from the payment of income tax for income arising from the operations of the enterprise.[1] It is understood, however, that the availment of the foregoing tax exemption is subject to the compliance with the provisions of Sections 1, 2 and 3 of Rule 3 of the DOF Order No. 17-04, to wit:

> *"Sec. 1. Exemption from Income Tax. — A duly registered BMBE shall be exempt from income tax on income arising purely from its operations as such BMBE: Provided, that this income tax exemption shall not apply to the following:*

[1] BIR Ruling No. 207-2011 dated July 1, 2011

a. *Interest, including those from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements;*
b. *Royalties;*
c. *Prizes and other winnings;*
d. *Cash and/or property dividends;*
e. *Capital gains from the sale of shares of stock not traded through the stock exchange;*
f. *Capital gains from the sale or other disposition of real property;*
g. *The share of an individual in the net income after tax of an association, a joint account, or a joint venture or consortium;*
h. *The share of an individual in the distributable net income after tax of a taxable partnership of which he is a partner;*
i. *Income from the practice of profession received directly from the clients or from the professional partnership of which the individual is a partner;*
j. *Compensation; and*
k. *All other forms of passive income and income from revenues not effectively connected with or arising from operations of the BMBEs as such.*

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Sec. 3. Availment of Tax Incentives. — For purposes of availing of the tax incentives, the BMBE shall register as such BMBE with the BIR RDO where the principal office or place of business of the BMBE is located. Its application for registration shall be supported by the following documents:

a. Copy of the BMBE's Certificate of Authority duly authenticated by the Office of the City or Municipal Treasurer;
b. Sworn Statement of the values of assets owned and/or used/to be used by the BMBE and/or its affiliates reflecting the current values thereof. The Sworn Statement shall be supported by pertinent information and documents such as:

   i. *Acquisition cost, date of acquisition and depreciated value for existing assets;*
   ii. *Invoices and/or official receipts for newly-acquired assets not yet depreciated;*
   iii. *Duly-notarized copy of Contract of Lease for assets used in the conduct of business covered by lease agreement; and*
   iv. *Copy of Loan Contract/s, if any, and Duly-Notarized Certification of Amortization Payments on the Loan.*

c. Certified list of branches, sales outlets, places of production, warehouse and storage places, or such other facility owned and/or operated by the BMBE indicating their respective addresses, whether located in the same municipality or city where the principal place of business is located, or elsewhere.
d. Certified list of affiliates, indicating addresses, line of business and responsible officers thereof;

e. *Latest Audited Financial Statement, or Account Information Form or its equivalent containing data lifted from audited financial statements."*

Thus, if the BMBE is currently registered with the BIR under or pursuant to existing registration rules and regulations, its registration as a BMBE shall be duly recorded by the BIR in the pertinent registration file of the BMBE, and its registration certificate be accordingly amended to reflect its registration likewise as a BMBE. If the BMBE has not been registered under or pursuant to existing registration, the BMBE shall register for each type of internal revenue tax including withholding taxes for which it is liable.

It should be noted that while BMBEs are exempt from income tax, they are mandated to file income tax return pursuant to Section 52 of the Tax Code, as amended. For this purpose, the tax type "Income Tax" would always appear in the Certificate of Registration despite the income tax exemption. This does not mean, however, that BMBEs whose Certificate of Registration (BIR Form 2303) indicates Income Tax as tax type, is now considered as taxable entity for purpose of income tax.

Finally, if a BMBE is also entitled to exemption from income tax under any law other than the Act, it shall so state this fact in its registration form and indicate whether it shall avail itself thereof or the privilege under the Act. The choice so made shall bind the BMBE for the entire period of validity of its registration with the BIR. No BMBE shall be allowed double or multiple availment of income tax exemption privileges.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained 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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