REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

2004

R.A. 9520; RMC 12-10	000-00	#290-2016

Person to Contact: Chief, Law Division
Tel. Nos. 926-55-36/ 927-09-63

Date: June 27, 2016

PERPETUAL MEDICAL CLINIC
Bulan, Sorsogon

Attention: **DR. EDGARDO C. MONTEMAYOR, MD**

Gentlemen:

This refers to the consolidated letters dated September 30, 2012, October 21, 2013 and February 21, 2013 duly indorsed by Presidential Action Center requesting for an official opinion on whether or not the individual/public depositors transacting business with your cooperative bank particularly on Deposits shall be subjected to a 20% withholding Tax.

In reply, Section 24 (B) of the Tax Code, as amended, provides that a twenty percent (20%) final tax shall be imposed on amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements, thus:

> *"SECTION 24. Income Tax Rates. —*
>
> *xxx xxx xxx*
>
> *(B) Rate of Tax on Certain Passive Income: —*
>
> *Interests, Royalties, Prizes, and Other Winnings. — A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements;*
>
> *xxx xxx xxx"*

However, in Dumaguete Cathedral Credit Cooperative vs. CIR[1], the Supreme Court ruled that cooperatives are not required to withhold taxes on interest from savings and time deposits of their members. Revenue Memorandum No. 047-11 dated October 5, 2011)

Moreover, Section 11 of 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 as circularized by Revenue Memorandum Circular No. 012-10, provides that:

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[1] *G.R. No. 182722, January 22, 2010*

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> *"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 or fixed deposits*** *(otherwise known as share capital) with cooperatives, and documentary tax on transactions of members with the cooperative; and*
>
> *b) xxx xxx xxx" (emphasis supplied)*

The above-quoted provision and jurisprudence specifically excepted only member's deposits or fixed deposits, thus deposits of non-members which are not mentioned therefore are deemed subject to the 20% final tax.

It should be remembered that laws and statutes granting tax exemptions are strictly construed against the taxpayer. Exemptions are never presumed and the burden is upon the taxpayer to establish his right to exemption beyond reasonable doubt[2]. In the case of *Mactan Cebu International Airport Authority v. Marcos*[3], the Supreme Court held:

> *"Accordingly, tax statutes must be construed strictly against the government and liberally in favor of the taxpayer. But since taxes are what we pay for civilized society, or are the lifeblood of the nation, the law frowns against exemptions from taxation and statutes granting the exemptions are thus construed strictissimi juris against the taxpayer and liberally in favor of the taxing authority. A claim of exemption from tax payments must be clearly shown and based on language in the law too plain to be mistaken. Elsewise stated, taxation is the rule, exemption therefrom is the exception."*

In view of the foregoing, only the member's deposits are exempt from final tax on interest on deposits.

Very truly yours,

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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[2] Dimaampao, Japar B., Tax Principles and Remedies, Second Edition (2005)
[3] G.R. No. 120082, 11 September 1996, 261 SCRA 667