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

REVENUE REGULATIONS NO. 3-2017

SUBJECT:	**IMPLEMENTING THE TAX PROVISIONS OF REPUBLIC ACT (RA) NO. 10693, OTHERWISE KNOWN AS, THE "MICROFINANCE NGOs ACT."**
TO:	All Internal Revenue Officers, Employees, and Others Concerned

SECTION 1. Background –

Republic Act (RA) No. 10693, otherwise known as the "Microfinance NGOs Act", was signed into law on 03 November 2015. The Act is pursuant to the declared policy of the State to pursue a program of poverty eradication wherein poor Filipino families shall be encouraged to undertake entrepreneurial activities to meet their minimum basic needs including income security. It aims to encourage non-government microfinance institutions to work with the government to pursue community development and improvement in the socio-economic welfare of the poor and other basic and marginalized sectors through financially inclusive and pro-poor financial and credit policies and mechanisms, such as microfinance and its allied services.

On August 16, 2016, the Implementing Rules and Regulations of RA No. 10693 were duly approved by the concerned government agencies. Subsequently, this Bureau issued Revenue Memorandum Circular (RMC) No. 124-2016 dated November 25, 2016, circularizing the said Implementing Rules and Regulations.

SECTION 2. Scope –

Pursuant to the provisions of Sec. 244 of the National Internal Revenue Code (NIRC) of 1997, as amended, these Regulations are hereby issued to implement the tax provisions of RA No. 10693, particularly Section 20 thereof.

SECTION 3. Definition of Terms -

For purposes of these Regulations, the following terms and phrases shall be defined as follows:

(1) Act – the Microfinance NGOs Act or RA No. 10693;

(2) IRR- the Implementing Rules and Regulations of RA No. 10693;

(3) Accreditation – the process of giving official recognition to a duly registered Microfinance NGO, after meeting the minimum standards set by the Microfinance NGO Regulatory Council (or "Council"). A Microfinance NGO is deemed accredited when it is duly issued an accreditation certificate by the Council;

(4) Charges on loans – the agreed upon reasonable and conscionable interest rate, service charge, penalty, and such other charges incidental to microfinance lending activity;

(5) Clients – all borrowers and savers of a Microfinance NGO;

(6) Compensating balance – the proportion of the total loan of a microfinance client, which is retained with the microfinance institution as capital build-up (CBU) or microsavings which can be used by the microfinance institution to offset the clients' outstanding balance in case of default;

(7) Group Loan – a loan contracted by a member of a group of microfinance clients whose loan is guaranteed by the group of members collectively or by any members/s of the group. The creditor can collect from any of the members of the group that guaranteed the said loan, without prejudice to the right of reimbursement of the member or members of the group that had advanced the payment in favor of the actual debtor;

(8) Gross receipts from microfinance operations – the interest income, penalties, surcharges, commissions and discounts, service and general fees, and other charges related to microfinance operations actually or constructively received without any deduction of any kind or nature;

(9) Low-income – the income of individuals or families that fall below the low-income threshold, which is defined by the National Economic and Development Authority (NEDA) as twice the official national poverty threshold. This definition shall be subject to periodic review by the NEDA;

(10) Microcredit – the extension of microfinance loans by a Microfinance NGO to its poor and low-income clients;

(11) Microenterprise development strategy – the social reform program to promote and pursue inclusive growth that includes the poor, and whose implementation shall involve both the public and private sectors among which Microfinance NGOs are key players. Specifically, it refers to programs to empower the poor, manage risks and vulnerabilities and thereby improve their asset base and expand access to microfinance services, such as microcredit, microinsurance, microsavings, health care and microhousing through a broad package of financial, business and human development services and other nonfinancial services, including education to enable them to lead productive lives;

(12) Microfinance – the viable and sustainable provision of a broad range of financial services to poor and low-income individuals engaged in livelihood and microenterprise activities. It uses nontraditional and innovative methodologies and approaches, namely: the extension of small loans, simplified loan application procedures, group character loans, collateral-free arrangements, cash flow-based lending, alternative loan repayments, minimum requirements for CBU/minimum balance retention,

and small denominated savers' instruments aimed to improve their asset base and expand their access to capital and savings;

(13) Microfinance loans – small loans granted to the basic sectors, as defined in RA No. 8425, otherwise known as the "Social Reform and Poverty Alleviation Act", and other loans; as defined by the government as to their amount, scope, and coverage that are granted to the poor and low-income individuals for their microenterprises and small businesses so as to enable them to raise their income levels and improve their living standards. Microfinance loans are granted on the basis of the borrower's cash flow and are typically unsecured;

(14) Microfinance NGO – a nonstock, nonprofit organization duly registered with the Securities and Exchange Commission (SEC), with the primary purpose of implementing a microenterprise development strategy and providing microfinance programs, products, and services, such as microcredit and microsavings, for the poor and low-income clients;

(15) Microfinance Operations – refers to the following programs and services of Microfinance NGOs:

(a) Minimum Core Programs and Services. – Microfinance NGOs shall continuously provide at least any of the following programs, products, or services:

(i) Microcredit and financial literacy programs; and
(ii) Microcredit and CBU or microsavings.

(b) Other Programs and Services. – The following are the other programs and services that Microfinance NGOs may undertake, subject to existing laws and regulations:

(i) Agricultural microfinance;
(ii) Housing microfinance;
(iii) Microinsurance, in partnership with authorized microinsurance companies, agents and/or entities;
(iv) Electronic payment system such as mobile or any innovative digital platforms or channels;
(v) Money transfer and other related remittance services, in partnership with authorized agents and/or entities;
(vi) Provide development opportunities such as leadership training and entrepreneurial skills enhancement; and
(vii) Other relevant and/or innovative programs, products and services that address social welfare purposes and which are not contrary to existing laws and regulations. This may include, but not limited to, programs involving health, education, Disaster Risk Reduction and Management (DRRM), and Persons with Disabilities (PWD) assistance.

(16) Microinsurance – as defined under Section 187 of the Insurance Code, as amended, it is a financial product or service that meets the risk protection needs of the poor where:

(a) the amount of contributions, premiums, fees or charges, computed on a daily basis, does not exceed seven and half percent (7.5%) of the current daily minimum wage rate for non-agricultural workers in Metro Manila; and

(b) the maximum sum of guaranteed benefits is not more than one thousand (1,000) times of the current daily minimum wage rate for non-agricultural workers in Metro Manila.

(17) Microsavings – the program of a Microfinance NGO to collect relatively small amounts of money from their clients for purposes of maintaining a compensating balance. It refers also to equity build-up or capital build-up;

(18) Nongovernment organization (NGO) – a nonstock, nonprofit organization duly registered with the Securities and Exchange Commission (SEC), focusing on the upliftment of the basic or disadvantaged sectors of society by providing advocacy, training, community organizing, research, access to resources, and other similar activities, as defined in RANo. 8425;

(19) Poor – individuals and families whose income fall below the poverty threshold as defined by the NEDA. Generally, the poor are regarded as those who cannot afford, in a sustained manner, to provide their minimum basic needs of food, health care, education, housing and other essential amenities of life as defined by RA No. 8425;

(20) Social performance – the effective translation of a Microfinance NGO's mission into practice; and

(21) Social welfare promotion/purposes – the thrusts, objectives, plans, programs, services and activities designed to aid and/or ameliorate the living conditions of the poor, disadvantaged, marginalized, vulnerable and underprivileged individuals and their families in order to attain improved quality of life and well-being.

SECTION 4. – Accreditation of Microfinance NGOs

Microfinance NGOs must secure a Certificate of Accreditation from the Council as a condition for the availment of the incentives of RA No. 10693. As required under the said Act, a Microfinance NGO must be a non-stock, non-profit corporation with a capital contribution of at least One Million Pesos (P1,000,000.00) and must conform to the following requirements:

(1) The word "Microfinance" shall be included in the corporate and trade name of the Microfinance NGO; and

(2) Its Articles of Incorporation and By-Laws shall specifically state that:

(a) It is "non-stock and non-profit";

(b) It has the primary purpose of implementing a microenterprise development strategy and providing microfinance programs, products, and services for the poor;
(c) Shall specifically provide that upon dissolution, the net assets shall be distributed to another NGO organized for similar purposes, or the State for public purpose/s or as may be determined by a competent court of justice;
(d) No part of the property or income shall inure to the benefit of any member, officer, organizer or any individual person;
(e) The trustees shall not receive any compensation or remuneration, except reasonable per diem;
(f) The level of administrative expenses shall not exceed thirty percent (30%) of the total expenses for the taxable year; and
(g) Other requirements which the Council may deem necessary.

Only Microfinance NGOs with duly issued Certificates of Accreditation from the Council shall be eligible to avail of the 2% gross receipts tax on income from microfinance operations as set forth under Section 6 hereof.

SECTION 5. Transitional Accreditation

Microfinance NGOs which have been certified by the Securities and Exchange Commission (SEC) to have no derogatory information and are deemed accredited, in accordance with Section 2, Rule 11 of the IRR, as Microfinance NGOs for a period of one (1) year from the effectivity of RA No. 10693, unless sooner revoked, shall be entitled to avail of the 2% gross receipts tax on its income from microfinance operations.

SECTION 6. - Taxation of Microfinance NGOs

(1) A duly registered and accredited Microfinance NGO shall pay a two percent (2%) tax based on its gross receipts from microfinance operations in lieu of all national taxes: Provided, that preferential tax treatment shall be accorded only to NGOs whose primary purpose is microfinance and only on their microfinance operations catering to the poor and low-income individuals in alignment with the main goal of RA No. 10693 to alleviate poverty. Provided, further, that the Certificate of Accreditation issued by the Council or the Certificate of No Derogatory Information issued by the SEC, as the case may be, shall be an essential requirement for granting the 2% preferential tax treatment of Microfinance NGOs.

(2) The preferential rate of two percent (2%) tax based on gross receipts from microfinance operations should only refer to lending activities and insurance commission which are bundled and forming integral part of the qualified lending activities of the Microfinance NGOs.

(3) All other income by the Microfinance NGOs which are not generated from the lending activities and insurance commissions shall be subject to all applicable taxes, which shall include but not limited to the following:

(1) Interest income derived from loans other than those extended to qualified borrowers under RA No. 10693;
(2) Commission fees and other charges on the provision of electronic payment system such as mobile or any innovative digital platforms or channels;
(3) Commission fees and other charges on the provision of money transfer and other related remittance services;
(4) Interest income from any currency bank deposit, yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements including a depository bank under the expanded foreign currency deposit system;
(5) Royalties;
(6) Prizes and other winnings;
(7) Cash and/or property dividends;
(8) Capital gains from the sale or dispositions of real property;
(9) Capital gains tax on the sale, barter, exchange or other disposition of shares of stock in a domestic corporation;
(10) Stock transaction tax on the sale, barter, or exchange of shares of stock listed and traded through the local stock exchange;
(11) All other forms of income not related to microfinance operations (lending activities and insurance commission) catering to the poor and low-income individuals.

(4) The availment of the benefits under RA No. 10693 by Microfinance NGOs for their microfinance operations shall be evaluated in conjunction with their other lines of business in order to determine the appropriate tax treatment of revenues derived from those other activities.

(5) The Microfinance NGOs shall be constituted as a withholding agent for the government if they act as employer and any of their employees received compensation income subject to compensation withholding tax, or if they make payments to individuals or corporations subject to the withholding taxes at source as required under Chapter XIII and Section 57 of the Tax Code of 1997, as amended and implemented by Revenue Regulations (RR) No. 2-98, as amended.

(6) Finally, the Microfinance NGOs' books of accounts and other pertinent records shall be subject to periodic examination by revenue enforcement officers of this Bureau for the purpose of ascertaining whether they are complying with the conditions under which they have been granted tax incentives and their tax liability, if any, pursuant to Section 235 of the Tax Code of 1997, as amended.

SECTION 7. Update of Registration with the Revenue District Office.

Duly registered and accredited Microfinance NGOs, including those deemed accredited as Microfinance NGOs under Section 2, Rule 11 of the IRR, must update their registration with their concerned Revenue District Offices to reflect their accreditation as Microfinance NGOs. Moreover, their clients shall likewise be required to have a Taxpayer Identification Number (TIN). The documentary requirements for the application of TIN are provided under Revenue Memorandum Circular (RMC) No. 93-2016, as amended by RMC No. 137-2016.

In order to assist their clients in securing TIN, the Microfinance NGO, with proper authorization from the clients, may apply for the issuance of TIN in behalf of their clients, by collating the duly accomplished BIR Form 1904 of the clients and valid identifications in support thereof, which shall be submitted to the concerned RDO for the processing and issuance of the TIN.

SECTION 8. Repealing Clause. –

The provisions of all existing rules, regulations and other issuance or portions thereof inconsistent with the provisions of these Regulations are hereby modified, repealed or revoked accordingly.

SECTION 9. Effectivity. –

These Regulations shall take effect fifteen (15) days after publication in the Official Gazette or newspaper of general circulation, whichever comes first.

(Original Signed)
CARLOS G. DOMINGUEZ
Secretary
Department of Finance

Recommending Approval:

(Original Signed)
CAESAR R. DULAY
Commissioner of Internal Revenue

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