REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Republic Act No. 8367
Revenue Regulations No. 9-2004; and Revenue Memorandum Circular No. 9-2016
BIR Ruling No. 466-2014
OT- 333 - 2021

SEP 21 2021

Meralco Employees Savings and Loan Association, Inc.
Operation Bldg., Meralco Center
Ortigas Ave., Brgy. Ugong, Pasig City 1605

Attention: **<u>Maria Zarah R. Villanueva-Castro</u>**
General Counsel

Gentlemen:

This refers to your letter dated May 07, 2021 requesting on behalf of Meralco Employees Savings and Loan Association, Inc. (MESALA) for a confirmatory ruling on whether or not, a non-stock savings and loan association organized and operated exclusively for the mutual benefit of its members is subject to gross receipts tax (GRT) under Revenue Memorandum Circular No. 09-2016.

It is represented that **MESALA** with Taxpayer's Identification No. (TIN) and Certificate of Registration No. (dated May 23, 1997, is a corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. , and that a Certificate of Authority was issued by the Bangko Sentral ng Pilipinas (BSP) on C-051 in favor of **MESALA** authorizing the latter to operate as a Non-Stock Savings and Loan Association (NSSLA) under Republic Act (RA) No. 8367.

MESALA is organized as a non-stock and non-profit savings and loan association and its primary purpose is to engage in the operations of a non-stock and non-profit savings and loan association in order to encourage industry, frugality, savings among the members.[1]

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". Section 4 thereof provides that NSSLA shall confine its membership to a well-defined group of person and shall not transact business with the general public.

Section 4101S.1 of BSP Manual of Regulation for NSSLA enumerates membership for NSSLAs as a well-defined group which consist of employees, officers, and directors of one company, including member-retirees; government employees belonging to the same

[1] *Amended Articles of Incorporation of the Meralco Employees Savings and Loan Association, Inc.*

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department, branch, office; including member-retirees; and; immediate members of the families of the abovementioned, up to the second degree of consanguinity or affinity. Likewise, Section 4101S of the BSP Manual requires that a NSSLA shall accept deposit from and grant loans to its members only and shall not transact business with the general public.

R.A. No. 8367 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."*

Accordingly, Bureau of Internal Revenue (BIR) 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 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 special rules.** The GRT imposed is under Section 122 of the National Internal Revenue Code (NIRC) of 1997, as amended, *i.e.* tax on other NBFIs.

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."*

Further, in the case of City of Davao and Bella Linda N. Tanjili Vs. Randy Allied Ventures, Inc., G.R. No. 241697, July 29, 2019, the Supreme Court held that:

> *"In order to be considered as an NBFI under the National Internal Revenue Code, banking laws, and pertinent regulations, the following must concur:*
>
> *a. The person or entity is authorized by the BSP to perform quasi-banking functions;*

b. The principal functions of said person or entity include the lending, investing or placement of funds or evidences of indebtedness or equity deposited to them, acquired by them, or otherwise coursed through them, either for their own account or for the account of others; and

c. The person or entity must perform any of the following functions on a regular and recurring, not on an isolated basis, to wit:

1. *Receive funds from one (1) group of persons, irrespective of number, through traditional deposits, or issuance of debt or equity securities; and make available/lend these fund to another person or entity, and in the process acquire debt or equity securities;*
2. *Use principally the funds received for acquiring various types of debt or equity securities;*
3. *Borrow against, or lend on, or buy or sell debt or equity securities."*

Clearly, the imposition of GRT is on NBFIs engaged in the lending of funds or purchasing of receivables or obligations with funds obtained from the public. On the other hand, RA No. 8367 and the BSP Manual of Regulations for NSSLA mandate that a NSSLA shall accept deposit from and grant loans to its members only and shall not transact business with the general public. Not only that, 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.

Based thereon, since MESALA showed that it is a NSSLA, a non-profit organization, which obtains funds exclusively from its members and does not transact business with the general public, it is our considered view that GRT imposed under RMC No. 9-2016 on its lending activities is not warranted for as long as such transactions do not fall under the contemplated activities of a NBFI as defined by law and its rules and regulations.

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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