

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

October 20, 2003

REVENUE MEMORANDUM CIRCULAR NO. 72-2003

SUBJECT: Tax implications of Electric Cooperatives registered with the National Electrification Administration and Cooperative Development Authority.

TO : All Internal Revenue Officials, Employees and other Concerned.

To all internal revenue officers and others concerned, please be informed that:

A. Electric Cooperatives (ECs) registered with the National Electrification Administration (NEA) are exempt from:

1. Franchise tax under Section 119 of the Tax Code of 1997 (BIR Ruling No. DA-250-03 dated July 31, 2003);
2. Value-Added tax, on sales relative to the generation and distribution of electricity as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity [Sec. 109(s) of the Tax Code of 1997];
3. Income taxes for which they are directly liable [P.D. No. 269, Sec. 39 (a)(1)];
4. All National Government taxes and fees, including franchise, filing, recordation, license or permit fees or taxes. Provided, however, that the said exemption shall end on December 31 of the thirtieth full calendar year after the date of a cooperative's organization or conversion, or until it shall become completely free of indebtedness incurred by borrowing, whichever event first occurs. Provided further, that the period of exemption for a new cooperative formed by

consolidation, as provided in Section 29 of P.D. No. 269, to begin from as of the date of the beginning of such period for the constituent consolidating cooperative which was most recently organized or converted under P. D. No. 269 [P.D. No. 269, Sec. 39(a)(2)]; and

5. Three Percent (3%) Percentage Tax under Sec. 116 of the Tax Code of 1997.

B. Electric Cooperatives (ECs) registered with the Cooperative Development Authority (CDA).

1. For ECs that do not transact any business with nonmembers or the general public:
 - a. Franchise taxes under Section 119 of the Tax Code of 1997 (BIR Ruling No. DA-250-03 dated July 31, 2003);
 - b. Income Tax on income from operations;
 - c. Value-Added tax, on sales relative to the generation and distribution of electricity as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity [Sec. 109(s) of the Tax Code of 1997];
 - d. Three Percent (3%) Percentage Tax under Sec. 116 of the Tax Code of 1997;
 - e. Donor's Tax on donations to duly accredited charitable, research and educational institutions, and reinvestment to socio-economic projects within the area of operation of the ECs;
 - f. Excise Tax under Title VI of the Tax Code of 1997;
 - g. Documentary Stamp Tax imposed under Title VII of the Tax Code of 1997. Provided, however, that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax and;
 - h. Annual Registration Fee of P500.00 under Section 236(B) of the Tax Code of 1997.
2. For cooperatives transacting business with both members and nonmembers:

- a. if ECs transact business with members, all national internal revenue taxes for which they are directly liable as enumerated under paragraph B (1) hereof;
- b. If ECs transact business with nonmembers and have an accumulated reserves and undivided net savings of not more than Ten Million Pesos (P10,000,000.00), all national internal revenue taxes for which they are directly liable as enumerated under paragraph B (1) hereof;..

Such ECs shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts used by them and which are not available locally as certified by the Department of Trade and Industry. All tax-free importations shall not be transferred to any person until after five (5) years, otherwise, the EC and the transferee or assignee shall be solidarily liable to pay twice the amount of the tax and/or duties thereon.

- c. If ECs transact business with nonmembers and have an accumulated reserves and undivided net savings of more than Ten Million Pesos (P10,000,000.00), it shall be exempt from the following taxes:
 - i. income tax for a period of ten (10) years from date of registration with the CDA. Provided, that at least twenty five percent (25%) of the net income of the EC is returned to the members in the form of interest and/or patronage refund;
 - ii. Value-Added tax, on sales relative to the generation and distribution of electricity as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity [Sec. 109(s) of the Tax Code of 1997];
 - iii. Annual Registration Fee of P500.00 under Section 236(B) of the Tax Code of 1997; and
 - iv. Donations to charitable, research and educational institutions and investment to socioeconomic projects within the area of operation of the cooperative may be tax deductible.

However, it shall be subject to the following taxes:

- i. Income Tax after the expiration of the exemption- On the amount allocated for interest on capital; Provided, That the same tax is not consequently imposed on interest individually received by members;
- ii. Sales Tax after the expiration of the exemption - On sales to nonmembers; and
- iii. All other taxes unless otherwise provided herein.

All ECs under this paragraph, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment of taxes on transactions with banks and insurance companies: Provided, That all sales or services rendered for nonmembers shall be subject to the applicable percentage taxes except sales made by producers, marketing or service cooperatives: Provided, further, That nothing in this RMC shall preclude the examination of the books of accounts or other accounting records of the EC by duly authorized internal revenue officers for internal revenue tax purposes only, after previous authorization by the CDA.

All ECs, whether it be registered with the NEA or CDA, shall be subject to:

- a. 20% final income tax on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties derived from sources within the Philippines.
- b. 7.5% final income tax on interest income derived from a depositary bank under the expanded foreign currency deposit system;
- c. Capital Gains Tax on sales or exchanges of real property classified as capital assets or shares of stock;
- d. Documentary Stamp Taxes on transactions of ECs dealing with non-members when the accumulated reserves and undivided net savings of such cooperatives exceed Ten Million Pesos (P10,000,000.00);
- e. VAT billed on purchases of goods and services not exempt.
- f. All other taxes for which the ECs are not otherwise expressly exempted by any law.

Moreover, all ECs are considered as withholding agents and are required to file withholding tax returns and remit withholding taxes on all income payments that are subject to withholding..

Please be guided accordingly.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner