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

Bureau of Internal Revenue Ruling

Republic Act (RA) No. 9136; RA No. 9520; Section 236 (I) of the National Internal Revenue Code (NIRC) of 1997, as amended		#573-2017

Date: December 7, 2017

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

DAVAO DEL NORTE ELECTRIC COOPERATIVE
PCU Annex Building, Barangay Magdum,
Tagum City, Davao del Norte

Attention: **ENGR. JEROLD M. OSORIO**
OIC – General Manager

ENGR. ALBERT M. OMEGA
Chairman – BOD

ATTY. BALTAZAR A. SATOR
Legal Counsel

Gentlemen:

This refers to your letter dated February 17, 2017, requesting on behalf of Davao del Norte Electric Cooperative ("DANECO" for brevity) for the issuance of a new Tax Identification Number (TIN) and Authority to Print (ATP).

Background:

Pursuant to Section 57 of Republic Act (RA) No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001", electric cooperatives had been given the option to convert into either stock cooperative under the Cooperatives Development Act or stock corporation under the Corporation Code. This resulted to the conversion of DANECO into a stock cooperative duly registered with the Cooperative Development Authority (CDA) on May 21, 2012, bearing Certificate of Registration No.

By reason of the registration of DANECO with CDA, it is alleged that DANECO acquired a new juridical personality. Thus, the Board of Directors (BODs) passed a Resolution retiring the TIN . Hence, this request.

In reply, please be informed that Article 132 of RA No. 9520 otherwise known as the "Philippine Cooperative Code of 2008", enumerates the effects of subsequent registration with the CDA, to wit:

*"**ART. 132. Effects of Registration with the Authority.** – (1) Upon the effectivity of this Code, electric cooperatives that are duly registered with the Authority, and issued a certificate of registration, shall no longer be covered by Presidential Decree No. 269, as amended by Presidential Decree No. 1645: Provided, That electric cooperatives registered with the Authority shall now be*

covered by the provisions of this Code as well as the future rules and issuances of the Authority: Provided, however, that the security of tenure and the collective bargaining agreement between the cooperative management and its employees shall be respected, with no diminution of their existing salaries, emoluments, ranks and other benefits;

"(2) The electric cooperatives registered with the Authority with existing loans obtained from the NEA after June 26, 2001 shall continue to observe the terms of such loans until full payment or settlement thereof;

"(3) Except as provided in the immediately preceding paragraph, the NEA shall no longer exercise regulatory or supervisory powers on electric cooperatives duly registered with the authority

"(4) Electric cooperatives registered with the Authority are entitled to congressional allocations, grants, subsidies and other financial assistance for rural electrifications which can be coursed through the Department of Energy, the Authority and/or local government units. The electric cooperatives registered under this Code can avail of the financial services and technical assistance provided by the government financial institutions and technical development agencies on terms respecting their independence as autonomous cooperatives;

"(5) All condoned loans, subsidies, grants and other assistance shall form part of the donated capital and funds of the electric cooperatives and as such, it shall not be sold, traded nor be divided into shareholdings at any time; these donated capital/fund shall be valuated for the sole purpose of determining the equity participation of the members; Provided, That in the case of dissolution of the cooperative, said donated capital shall be subject to escheat; and

"(6) Electric cooperatives registered and confirmed with the Authority under Republic Act No. 6938 and Republic Act No. 6939 are hereby deemed registered under this Code."

Under the above quoted provision, it is clear that the entity DANECO still exists. It was neither dissolved nor did it cease operations. Aside from this, RA No. 9520 does not provide that subsequent registration with the CDA causes the dissolution or the cessation of the juridical personality of an electric cooperative formerly registered with the National Electrification Authority (NEA).

Moreover, Section 236 (I) of the National Internal Revenue Code of 1997, as amended, provides:

"SEC. 236. Registration Requirements. –

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(I) Supplying of Taxpayer Identification Number (TIN). –

Any person required under the authority of this Code to make, render or file a return, statement or other document shall be supplied with or assigned a Taxpayer Identification Number (TIN) which he shall indicate in such return, statement or document filed with the Bureau of Internal Revenue for his proper identification for tax purposes, and which he shall indicate in certain documents, such as, but not limited to the following:

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> ***Only one Taxpayer Identification Number (TIN) shall be assigned to a taxpayer.*** *Any person who shall secure more than one Taxpayer Identification Number shall be criminally liable under the provision of Section 275 on 'Violation of Other Provisions of this Code or Regulations in General'."* (Emphasis supplied)

From the foregoing, it is clear that DANECO should not be allowed to have a new TIN. Otherwise, this violates Section 236 of the National Internal Revenue Code of 1997, as amended. It thus follows that it cannot also be allowed to apply for a new ATP. What DANECO can do is to update its registration by using BIR Form No. 1905 which must be done at the Revenue District Office (RDO) which has jurisdiction over DANECO's head office.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
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