Atty. Antonette P. Clamor Legal Officer III

Bureau of Internal Revenue Archbishop Reyes Ave., Cebu City Tel. No. 232-5546 Cel No. 09173217206

Objective/Purpose:

- To update/review and clarify issues relative to :
- LEGAL BASIS OF TAX EXEMPTION OF COOPERATIVES
- PROCEDURES ON THE PROCESSING /EVALUATION OF APPLICATIONS FOR CTE
- TAXABILITY / EXEMPTION OF COOPERATIVES AND ITS MEMBERS
- RECENT BIR RULINGS/REVENUE REGULATIONS AND COURT DECISIONS RELATIVE TO RA9520

REPUBLIC ACT 9520

- "PHILIPPINE COOPERATIVE CODE OF 2008"
- Approved/sign into law April 6, 2009
- Published
 March 7, 2009
- Effectivity March 22, 2009
- RMC 12-2010 (Joint Implementing Rules on RA 9520)
- Effectivity June 16, 2010

RA 9520

• Section 18. *Transitory Provisions.*- (1) All cooperatives registered and confirmed with the Authority under Republic Act No. 6938 and 6939 are hereby deemed registered under this code, and a new certificate of registration shall be issued by the authority: Provided, That such cooperative shall submit to the nearest office of the authority a copy of their certificate of registration or certificate of confirmation, the articles of cooperation, their by laws, and their latest audited financial statement within one (1) year from the effectivity of this code, otherwise they shall be deemed cancelled motu proprio.

Section 144 (2) of RA 9520

- Following the issuance of the new certificate of registration, the registered cooperative **shall secure their certificate of tax exemption from the** nearest BIR office: Provided, that such exemption shall be valid for **five** (5) **years** from date of issue xxxxxxx."
- That the BIR and CDA shall jointly issue the necessary regulations on this exemption within ninety (90) days from the effectivity of RA 9520.

• It is only after a cooperative has secured a **new** Certificate of Registration with CDA under RA 9520 that cooperative becomes eligible to apply for a Certificate of Tax Exemption (CTE) with the BIR. (Sec.4 of RMO 76-2010)

No. of Coop granted Tax Exemption Certificate (CTE) by BIR Revenue Region No. 13 as of Sept. 30,2015

No. of Registered Coop under RA 9520 No. Coop. with CTE Issued by BIR

 Cebu Province 	621	10.4
Cebu Province	631	194
 Bohol province 	622	209
 Cebu City North 	157	35
 Cebu City South 	85	38

Total

1,495

476

Tax Exemption of Coops Registered with CDA

- A law granting tax exemption is strictly construed against the person or entity claiming exemption
- The burden of proving tax exemption rests upon the taxpayer claiming tax exemption.

1904-2004 D Original Renewal REPUBLIKA NG PILIPINA KAGAWARAN NG PANANALAPI KAWANIHAN NG RENTAS INTERNAS

> Revenue Region No. 13 Cebu City

Certification Fee P100 O.R. No. 00846194 Dated: August 31, 2011

COOP-231-11-RR-13-RDO-82

CERTIFICATE OF TAX EXEMPTION

(For Cooperatives registered under Republic Act No. 9520)

THIS IS TO CERTIFY THAT

Abella Streets, Cebu City, is a duly-registered taxpayer of RDO No. 82 under Tax Identification No. 000-561-388-000 and is registered with the Cooperative Development Authority under Registration Certificate No.9520-07013587 dated March 22, 2010.

As a cooperative transacting with members only,

is entitled to the following tax exemptions and incentives provided for under Article 60 of Republic Act No. 9520, as implemented by Section 7 of the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of RA No. 9520:

- 1. Exemption from Income tax on income from CDA-registered operations;
- 2. Exemption from Value-added tax on CDA-registered sales or transactions;
- 3. Exemption from other Percentage tax;
- Exemption from 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 cooperative;
- 5. Exemption from Excise tax for which it is directly liable;
- Exemption from Documentary stamp tax: Provided, however, that the other
 party to the taxable document/transaction who is not exempt shall be the one
 directly liable for the tax;
- Exemption from payment of Annual Registration fee of Five hundred pesos (P500.00); and
- 8. Exemption from all taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depositary bank under the expanded foreign currency deposit system.

This Certificate of Tax Exemption shall be valid for five (5) years or until March 22, 2014 unless sooner revoked by this Office for violation of any provisions of the Joint Revenue Regulations, the terms and conditions on the reverse side hereof or upon withdrawal of the Certificate of Registration by the CDA.

In Testimony Whereof, I have hereunto set my hand at Cebu City Philippines this 23rd day of August 2011.

> JOSE N. TAN, CESO V Regional Director

RR 13-3/1085



IF NO CTE Cooperative is subject to:

- Income TAX
- VAT
- Excise Tax
- Percentage Tax
- Annual registration Fee P500
- <u>D</u>ocumentary Stamp tax
- <u>Final tax 20</u>% interest income deposit and 7.5% EFC
- VAT on revenues on system loss and revenues on distribution, supply and transmission of electricity to members

TAXABILITY OF COOPERATIVES

All income of cooperatives <u>not related</u> to <u>main/principal business</u> under its Articles of Cooperation <u>shall</u> be subject to all appropriates taxes. (Sec. 9 of RMC 12-2010)

Implementing Rules and Issuances on RA 9520

- 1. Revenue Memorandum Circular No. 12-2010 (Circulating the full text of Joint Rules and Regulations Implementing Articles 60, 61 and 144 of R.A. No. 9520) effective June 16, 2010
- 2. Revenue Memorandum Order No. 76-2010 (Policies and Guidelines in the Issuance of Certificate of Tax Exemption of Cooperatives and Monitoring thereof)- effective September 27, 2010
- 3. Memorandum Order dated June 9, 2011 Deputy Commissioner Nelson Aspe Processing of tax exemption
- 4. Revenue Memorandum Circular 12-2012 March 12, 2012 -Not to issue certificate of registration to cooperatives engaged in construction, mining, labor contracting, professionals and other similarly situated cooperatives

I. MEMORANDUM ORDER Dated June 9, 2011 of Deputy Commissioner Nelson M. Aspe

- All duly registered cooperative under RA 9520 shall apply for a Certificate of Tax Exemption within sixty (60) days counted from the date of issuance of certificate of registration. (Sec 13 of RMC 12-23010)
- For application for tax exemption not filed within the prescribed period, the late applicant shall be subjected to internal revenue taxes prior to issuance of the issuance of the Certificate of Tax Exemption (CTE). (Sec. 13 of RMC 12-2010)

MEMORANDUM ORDER dated June 9, 2011- Deputy Commissioner NELSON ASPE

- IF DATE OF ISSUE CDA REGISTRATION Date CTE Application with BIR
 - April 6, 2009 to June 15, 2010 = on or before Aug.15, 2010
 - June 16, 2010 onwards = within 60 days from date registration
 - Otherwise subject to Section 13 of RMC 12-2012 Joint Implementing Rules
- - that for late applicants it shall be subjected to all internal revenue taxes prior to the issuance of the Certificate of Tax Exemption/Ruling.

Registration No: 9520-1070000000031386

CERTIFICATE OF REGISTRATION

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS:

This is to certify that

Primary Builders and Skills Credit and Savings Cooperative

Name of Coop

70201531386 CIN

with address at SKILLS Campus, General Maxilom Avenue, Brgy. Lorega, Cebu City-North, has presented and filed with the Authority its Articles of Cooperation and By-laws duly signed and acknowledged for its organization in accordance with the provisions of Republic Act 9520. This certifies further that the said Articles of Cooperation and By-laws have complied with the provisions of the said Republic Act 9520 and its Implementing Rules and Regulations.

By virtue of the powers and duties vested upon me by law, the above named cooperative is hereby registered with the Cooperative Development Authority and shall continue to enjoy the rights and privileges in accordance with Republic Act 9520 and all other laws appurtenant thereto unless this Certificate is suspended or cancelled for cause.

Given in Quezon City, Philippines, this 19th day of November, 2015.



ORLANDO R. RAVANERA, CSEE, CEO VI

OUPERATIVE DEVELOPMENT AUTHURY FOU EXTENSION OFFICE

II. RMC 12-2012 dated March 12, 2012

- Non-registration of Cooperatives not specifically identified under RA 9520
- Publishing CDA memorandum order to refrain from issuing Certificate of Registration and to recall or cancel those already issued to those organization not identified under RA 9520 such as:
 - Labor Contracting
 - Professionals
 - Construction
 - Mining and other cooperatives similarly created

MEMORANDUM ORDER DATED MARCH 7, 2017 OF CIR DULAY

- THE RDS AND RDOS ARE HEREBY DIRECTED TO PROCESS AND ISSUE THE CTEs PROVIDED COOPERATIVES COMPLY WITH RMO 76-2010, NO DOCUMENTS OTHER THAN THOSE STATED IN THE SAID RMO SHALL BE ASKED FOR THE APPLICANTS.
- WITH RESPECT TO THE REQUIREMENT OF TIN OF THE COOPERATIVE MEMBERS, THE CTE SHALL BE ISSUED WITHOUT THE TIN OF THE MEMBERS PROVIDED THE COOPERATIVES SHALL SUBMIT WITH 6 MONTHS FROM THE ISSUANCE OF CTE

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COMMISSIONER JESUS CLINT ARANAS DATED FEB. 24, 2017

 ACCORDINGLY SERVICE COOPERATIVES THAT FULLY COMPLY WTH THE GUIDELINES OF CDA UNDER MC NO. 2012-11 (PROFESSIONALS); MC NO. 2012-12 (REGISTRATION OF LABOR SERVICE); MC NO. 2012-13 (REGISTRATION OF HEALTH SERVICE); AND MC NO, 2012-14 (REGISTRATION OF SMALL SCALE MINING) MAY BE GIVEN TAX EXEMPTION CERTIFICATE PROVIDED THAT THEY ALSO SUBMIT DOCUMENTS REQUIRED BY THE BIR UNDER RMO 76-2010

COMMISSIONER JESUS CLINT ARANAS DATED FEB, 24, 2017

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• IT IS OUR POSITION THAT SERVICE COOPERATIVE MUST NOT BE TOTALLY PROHIBITED UNDER RA 9520 FROM VAILING OF THE TAX INCENTIVES PROVIDED THAT THEY ARE REGISTERED WITH CDA AND HAVE BEEN ISSUED CERT OF GOOD STANDING, PROVIDED THAT THESE COOPERATIVE WILL BE SUBJECTED TO POST AUDIT VERIFICATION CHECK WHETHER THEY ARE BEING USED AS TAX SHIELD TO AVOID OR EVADE TAXES.

III. Revenue Memorandum Order 76-2010

Policies and Guidelines in the Issuance of Certificate of Tax Exemption of Cooperatives and Monitoring thereof)- effective September 27, 2010

- All cooperatives registered with the CDA under RA 9520 are mandated to update their registration information with the BIR
- A cooperative applying for tax exemption shall be required, as a condition for the issuance of Certificate of Tax Exemption, to update its BIR Registration with the Revenue District Office (RDO) having jurisdiction over the cooperative's place of business.

Documentary Requirements for <u>Original Issuance</u> of CTE under Section 5 (a) of RMO 76-2010

- BIR Form 1945 together with <u>Certified True Copies</u>
 of:
- 1. CERTIFICATE OF REGISTRATION with CDA UNDER RA 9520;
- 2. LATEST ARTICLES OF COOPERATION AND BY LAWS;
- 3. CURRENT CERTIFICATE OF GOOD STANDING;
- 4. BIR Certificate of Registration
- Additional requirement
 - 5. Certificate under oath of the List of cooperative members with their respective TIN and Capital contribution prepared by authorized official of the cooperative.

Documents needed for the <u>Renewal</u> of tax exemption under Section 5 (B) of RMO 76-2010

- Duly accomplished BIR Form 1945 with Certified True Copies of the following:
- 1. CERTIFICATE OF REGISTRATION with CDA under RA 9520;
- 2. LATEST ARTICLES OF COOPERATION AND BY LAWS;
- 3. CURRENT CERTIFICATE OF GOOD STANDING;
- 4. LATEST **FINANCIAL STATEMENT** OF THE IMMEDIATELY PRECEDING YEAR DULY AUDITED BY A BIR ACCREDITED INDEPENDENT CPA

Processing of CTE

- Submit all documents to the Revenue District Office having jurisdiction over the principal place of business of cooperative instead of the National Office.
- RDO SHALL REFUSE TO ACCEPT APPLICATION NOT SUPPORTED BY COMPLETE DOCUMENTS (Section 4 RMO 76-2010)
- If all documents are complete and in order the **Revenue Officer of the Day** shall prepare the **Pre-evaluation sheet** and Memo **Indorsement Form** and shall transmit within five (5) working days from the filing of the duly accomplished BIR Form 1945 together with the required documents to the Regional Director through, Chief, Legal Division. (Sec 6 RMO 76-2010)

Processing documents

 Review by the Legal Division and Approval Regional Director of Tax Exemption Certificate = 5 days Republic of the Philippines Office of the President **Department of Finance**

COOPERATIVE DEVELOPMENT AUTHORITY ertificate

is conferred to

PRIMARY BUILDERS AND SKILLS CREDIT AND SAVINGS COOPERATIVE SKILLS Campus, General Maxilom Avenue, Barangay Lorega, Cebu City-North, Cebu

CIN No. 70201531386

A Cooperative duly registered with this authority under Registration No. 9520-107000000031386 on November 19, 2015 for being compliant with all the requirements under Memorandum Circular No. 2011-16.

This Certificate shall be valid and effective until April 30, 2016.

Issued this 20th day of November, 2015 in the City of Cebu, Philippines.

ORLANDO R. RAVANERA

Chairman

OIC-Director

KATIVE DEVELOPMENT AUTHURIL. CERTIFIED TRUE XEROX COPY

CARMELO C. CABERTE

NOT VALID FOR RICE IMPORTATION

Validity Certificate of tax Exemption (CTE)

- Certificate of Tax Exemption is valid for a period of five (5) years from the date of issue;
- However for the initial issuance of CTE under RA 9520, the effectivity of such CTE issued shall commence from the year RA 9520 took effect: Provided, that the cooperative has registered with CDA as provided for under Article 144 of RA 9520.

Renewal Certificate of Tax Exemption

•Application for renewal shall be filed at least two (2) months prior to the date of expiration of existing CTE.

VERIFICATION OF ANNUAL INFORMATION RETURN/INCOME TAX RETURN, FINANCIAL STATEMENTS, ATTACHMENTS AND RECORDS

• The books of accounts and other pertinent records, as well as the operations of all cooperatives, maybe examined by the BIR **annually for purposes** of ascertaining compliance with conditions under which they have been granted tax exemption by the BIR, only after authorization by the CDA or its extension office having jurisdiction over the cooperative copy furnished cooperative concerned, within twenty days from the receipt of the request from BIR . (Section 16 of RMC 12-2010)

GROUNDS FOR REVOVATION OF CTE

- Failure to submit yearly <u>on or before April 15</u> after the close of the calendar year the following, any of the following documents:
- 1. Annual Information Return (BIR Form 1702)
- 2. Certificate of Good Standing;
- 3. **Certificate** <u>under oath</u> by the Chairperson/General Manager stating the following: Amt. of accumulated Reserves /net surplus; The type/category of cooperative and principal activities/business; transacting business with members only or both members and non-members; that at least 25% of the net surplus is returned to the members in the form of interest on share capital and/or patronage refund;
- 4. **Original copy of yearly summary of records** of transactions clearly showing which transactions corresponds to members and non-members
- 5. Certification under oath of the **List of Members with corresponding TIN** and share capital contribution

4. Revenue Memorandum Circular 12-2010 Effective June 16, 2010

• 4. <u>Revenue Memorandum Circular 12-2010</u> <u>Effective June 16, 2010</u>

Joint Rules and Regulations Implementing Art. 60, 61 and 144 of RA 9520

Definition of Terms

UNDIVIDED NET SURPLUS / UNDIVIDED NET SAVINGS- refers to the net amount arising from the operations of the cooperative after deducting the operational expenses from <u>revenue generated</u>.

ACCUMULATED RESERVES — ACCUMULATED AMOUNT OF MONEY DEDUCTED FROM THE <u>NET SURPLUS</u>, WHICH SHALL NOT BE LESS THAN 50% FOR THE FIRST FIVE YEARS OF OPERATION AFTER REGISTRATION AND NOT LESS THAN 10% THEREAFTER, INTENDED NOT FOR THE ALLOCATION OR DISTRIBUTION TO THE MEMBERS BUT FOR THE **PROTECTION AND STABILITY OF THE COOPERATIVE REFERED TO AS** RESERVE FUND.

UNDIVIDED NET SURPLUS/SAVINGS

- Gross Sales = 5,000,000.00
- Less : Cost of Sales = 1,000,000.00
- Less :Allowable Expense = 300,000.00
- Undivided Net Surplus/Savings 3,700,000.00

ACCUMULATED RESERVE

 Accumulated reserve after five years in operation cooperative must have a reserve of not less than 10% of the Net Surplus

• Example $12\% \times P_{3,700,000} = 444,000.00$

Undivided Net Savings +Accumulated Reserves

- A. Transacting with members only
- UNS + AR = is less than Ten Million = Exempt
- UNS + AR = is more than 10Million = Exempt
- B. Transacting with both Members and Non-Members
- UNS + AR = is **More than Ten Million** = cooperative subject to tax on transaction with non-members

Cooperatives dealing with MEMBERS ONLY is EXEMPT FROM (I<u>VEPADFV</u>)

- <u>Income TAX</u>
- VAT
- <u>Excise Tax</u>
- Percentage Tax
- Annual registration Fee P500
- <u>D</u>ocumentary Stamp tax
- <u>Final tax 20</u>% interest income deposit and 7.5% EFC
- VAT on revenues on system loss and revenues on distribution, supply and transmission of electricity to members

Section 8. COOPERATIVE TRANSACTING OR DEALING WITH BOTH MEMBERS AND NON-MEMBERS With LESS THAN TEN MILLION PESOS AR and UNS

- EXEMPT FROM
 - INCOME TAX
 - VAT
 - EXCISE TAX
 - PERCENTAGE TAX
 - ANNUAL FEE OF 500
 - DONORS TAX
 - FINAL TAX 20% INCOME ON DEPOSIT
 - VAT ON REVENUES ON SYTEM LOSS

Sec. 8 B. Cooperatives Transaction with BOTH MEMBERS AND NON – MEMBERS WITH More Than 10 Million AR and UNS SUBJECT TO:

• A. INCOME TAX- TAX BASE SHALL BE THE <u>NET SURPLUS</u> ARISING FROM THE BUSINESS TRANSACTIONS WITH <u>NON-MEMBERS AFTER DEDUCTING STATUTORY RESERVE FUND</u>

Coop. transacting with both members and non-members with more than 10 Million AR and UNS

- Subject to the following taxes on transaction with nonmembers:
 - Income Tax
 - Documentary Stamp Tax
 - VAT
 - Percentage Tax
 - Excise

Business Activities not listed in the Articles of Cooperation

- COOPERATIVES ENGAGED IN BUS. ACTIVITIES NOT RELATED TO ITS PRIMARY/SECONDARY PURPOSE SHALL BE SUBJECT TO:
 - INCOME TAX
 - VAT
 - PERCENTAGE TAX
 - DOCUMENTARY STAMP TAX
 - EXCISE TAX
 - OTHER INTERNAL REVENUE TAXES

TAXABILITY OF COOPERATIVES with approved Certificate of Tax Exemption

- a. **Capital Gains Tax** sale of shares of stocks, or sale exchange or other disposition of **real property classified as capital asset**.
- b. **Documentary Stamp Taxes** on transactions of cooperatives dealing with non-members;
- c. VAT billed on purchases of goods and services except the VAT on the importation by agricultural cooperatives of direct farm inputs, machineries and equipment;
- d. Withholding tax on compensation/ wages except minimum wage earners- cooperatives are considered withholding agent on all income payments that are subject to withholding tax under RR 2-98;
- e. All other taxes for which the cooperative are not otherwise expressly exempted by any law.
- f. (Sec. 10 of RMC 12-2010)

Coop as WITHHOLDING AGENT

- COOP are considered as withholding agents and are required to file withholding tax returns and remit withholding taxes on all income payment that are subject to withholding.
- If cooperative fails to withhold and remit such tax or account, the coop shall be liable upon conviction to a penalty equal to the total amount of the tax not withheld or not accounted for and remitted.
- Section 251 of the NIRC

VAT

- Services billed by PLDT and other telecommunication services to COOPs
 -Subject to 12% VAT
- BIR Ruling 353-11 dated Sept 28, 2011

Taxability of Coop Members under RA 9520

- ALL COOP MEMBERS ARE LIABLE TO PAY ALL THE NECESSARY INTERNAL REVENUE TAXES **EXCEPT**:
 - MEMBER'S DEPOSITS OR FIXED DEPOSIT WITH COOPERATIVE (OTHERWISE KNOWN AS THE SHARE CAPITAL)
 - **DOCUMENTARY STAMP TAX** ON TRANSACTIONS OF MEMBERS WITH THE COOPERATIVE
 - PATRONAGE REFUND
 - (Section 11 of RMC 12-2010)

MEMBERS DEPOSIT/ FIXED DEPOSIT/SHARE CAPITAL

- Interest on Deposits
- NOT SUBJECT TO WITHHOLDING TAX
- SUBJECT TO INCOME TAX TO BE DECLARED IN THE ITR OF THE MEMBER
- RMC 47-2011 Savings and time Deposit of the members of cooperative are not subject ro 20% final tax on interest income.

NET SURPLUS DISTRIBUTED TO MEMBERS

- INTEREST ON MEMBER'S SHARE CAPITAL
- (Dividends)
 - NOT SUBJECT WITHHOLDING TAX
 - TO BE DECLARED IN THE ITR OF THE MEMBER (subject to income tax)
 - NOT SUBJECT TO VAT
 - (BIR RULING 075-05 DATED MARCH 9, 2005)

PATRONAGE REFUND

- NOT SUBJECT TO WITHHOLDING TAX AND INCOME TAX
- NOT SUBJECT TO VAT
- NO NEED TO DECLARE IN THE ITR
 - (BIR RULING DA 075-05 DATED MARCH 9, 2005)

DOCUMENTARY STAMP TAX (DST)

- Exempt from DST on Loans to members of Cooperative
- Exempt from DST on members on MEMBERS
 CONTRIBUTION BEING ENTIRELY DIFFERENT
 FROM CORPORATE SHARE OF STOCKS HENCE,
 NOT SUBJECT TO DST under Sec. 174 of the Tax Code.
- (BIR RULING DA 075-05 DATED MARCH 9, 2005

Documentary Stamp Tax

- RMO 25-2011 all requests of issuance of certification and cert. true copy by a taxpayer xxxxxxxxx shall pay P100.00 Certification fee and P15.00 DST for each certificate.
- Section 188 Tax Code- on each certificate or document or any description required by law issued or by rules or regulations of a public office, there shall be collected a documentary stamp tax.

Director's fee

- IF THE DIRECTOR IS AN EMPLOYEE OF THE COOPERATIVE: CONSIDERED AS COMPENSATION INCOME
- IF THE DIRECTOR IS NOT AN EMPLOYEE OF THE COOP: TREATED AS PROFESSIONAL INCOME SUBJECT TO CREDITABLE WITHHOLDING TAX

RMC 34-2008 ON DIRECTOR'S FEE

- SUBJECT TO CREDITABLE WITHHOLDING TAX OF 10% FOR GROSS RECEIPTS not EXCEEDING (p720,000.00) and 15% if exceeding 720,000.00
- WITHHOLDING TAX APPLIES TO PER DEIMS, ALLOWANCES, AND ANY OTHER FORM OF INCOME PAYMENT TO DIRECTOR

In closing

• Cooperatives, including their members, deserve a preferential tax treatment because of the vital role they play in the attainment of economic development and social justice. Thus, although taxes are the lifeblood of the government, the State's power to tax must give way to foster the creation and growth of cooperatives. To borrow the words of Justice Isagani A. Cruz: "The power of taxation, while indispensable, is not absolute and may be subordinated to the demands of social justice."34



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