

I. The Cooperative Movement in the Philippines

In contrast with the European and North American experience, the first cooperative in the Philippines were the product of a series of legislative measures except that of Dr. Jose Rizal's agricultural marketing cooperative in Dapitan which left no much record having assumed to have died with his execution in 1896.

From 1915-1927, four laws were passed to focus on the organization and provision of financial assistance to credit and marketing cooperatives such as the: Rural Credit Act, Act No. 2818, Cooperative Marketing Law and Commonwealth Act 116. However, with the inadequate inculcation of the principles of cooperation, voluntarism and self-reliance, the cooperatives failed and the loans remained unpaid.

The organization of church-based cooperatives in 1938 supported by an internally initiated savings from among the members begun in Vigan, Ilocos Sur in 1938 through Rev. Allen R. Huber of the Church of Christ. Their success inspired the Protestant Church in Ilocos Region to organize other types of cooperative and the government as well in strengthening cooperatives by: a) supporting the organization of other types of cooperatives including the non-agricultural; b) establishing the National Cooperative Fund; c) exempting cooperatives from government taxes and fees for the first five years of operation; and d) creating a regulatory body to administer the cooperative operations and funds.

When World War II broke out in December of 1941, the developments of cooperatives were greatly affected so that more cooperatives were organized/reorganized to help in the distribution of relief goods. However, the efforts folded up when there were no more goods to distribute. As such other measures were employed in 1947 to consolidate the government's hold on the cooperative movement like the: a) creation of the Cooperative Administration Office (CAO) to take charge of cooperative concerns; c) provision of non-collateral and large scale government financing to farmers with counterpart funding from the USAID through the Agricultural Credit and Cooperative Financing Administration (ACCFA) and Farmers Cooperative Marketing (FACOMA). Impressive as it was, by the end of five years, 455 FACOMAs were organized representing 259,029 farmers in about 10,700 barangays in 50 provinces. Surprisingly, low repayment of loans occurred resulting from its poor administration. Thus, the experiment ended ingloriously leaving behind an unpaid P500 Million worth of FACOMA loans.

The FACOMA debacle taught the cooperators of the need to amend the laws on non-agricultural cooperatives and to adopt a new law that would define more clearly the thrust of government involvement in cooperatives in general. In 1957, the Philippine Non-Agricultural Cooperative Law was passed separating

the administration of agricultural cooperative (farming, fishing and forestry) from the non-agricultural cooperatives (credit unions, consumers, industrial, services and multi-purpose cooperatives). The Philippine National Bank was established to provide credit to non-agricultural cooperatives however, it was closed after ten (10) years of operation due to mismanagement.

In 1960, the catholic church responded to the call of the Second Vatican Council in the solution of poverty and social injustice problems through the organization of cooperatives in the parishes. The efforts resulted in the organization of thousands of primary cooperatives of various types, which were linked up with one another to form secondary level federations. In turn, they were integrated to tertiary level organizations to form the national cooperative networks.

In 1969, the Code of Agrarian Reform (RA 6389) was passed mandating the utilization of cooperatives as primary conduits for credit, supply and marketing services to agrarian reform beneficiaries. However, by the start of the following year (1970) dark clouds loomed the horizon of cooperatives because various groups would like to block the passage of objectionable bills and to enact an alternative cooperative-friendly law instead. They found a ready ally in the person of Senator Pelaez who was credited with the passage of the Rural Electrification Law. On September 1972, martial law was imposed by then President Marcos who wanted the cooperatives as instruments for the propagation of his New Society or Bagong Lipunan.

During the martial law regime, President Marcos issued several decrees that dealt with cooperatives. The decree abolished CAO and organized the Bureau of Cooperative Development (BCOD) under the Department of Local Government and Community Development (DLGCD). A month later, the Agrarian Reform Decree (PD 27) was issued declaring the entire country as an agrarian reform area. PD 175 and Letter of Implementation No. 23 were issued in support of the agrarian reform program.

With government sponsorships, cooperatives were organized overnight. At the barrio level, pre-cooperatives called Samahang Nayons were organized and grouped in tens to form Kilusang Bayans (KBs) or full-pledged cooperatives. Marketing and financial services were provided by the Area Marketing Cooperatives and the Cooperative Rural Banks respectively in support of the SNs and KBs. The Cooperative Development Loan Fund was also created. However, the cooperatives did not last. Of the 22,000 SNs, only 5% remained active as of 1986. The failures were attributed from the heightened conflicts between the cooperative movement and the government and the forcible investment of coops' savings called guarantee loans funds in bailing out various CRBs without the members' consent. Apparently, the external threats to cooperatives survival led to their consolidation into national networks. One

such network is the National Confederation of Cooperatives (NATCCO) which has five regional development centers spread throughout the country.

With the recreation of democratic space in 1986, the cooperative leaders lobbied aggressively for the adoption of a cooperative-friendly legislation. They got all out support of Senators Aquilino Pimentel, Jr. and Agapito Aquino in having the Bill passed and signed as law (R.A. No. 6938) by President Corazon C. Aquino on March 10, 1990. A companion law (RA 6939) was also passed creating the Cooperative Development Authority (CDA) which provided the abolition of the Bureau of Agricultural Cooperatives (BACOD). With the passage of the Code, a powerful instrument for economic progress and development has been placed in the hands of the people.

On February 17, 2009, an Act amending the Cooperative Code of the Philippines was signed by President Gloria Macapagal Arroyo to be known as the "Philippine Cooperative Code of 2008".

II. General Concepts of a Cooperative

A cooperative is an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joined together to achieve their social, economic and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and accepting a fair share of risks and benefits of the undertaking in accordance with the universally accepted cooperative principles.

III. Objectives and Goals of a Cooperative

The primary objective of every cooperative is to help improve the quality of life of its members. Towards this end, the cooperative shall aim to:

(a) Provide goods and services to its members to enable them to attain increased income, savings, investments, productivity, and purchasing power, and promote among themselves equitable distribution of net surplus through maximum utilization of economies of scale, cost-sharing and risk-sharing;

(b) Provide optimum social and economic benefits to its members;

(c) Teach them efficient ways of doing things in a cooperative manner;

(d) Propagate cooperative practices and new ideas in business and management;

(e) Allow the lower income and less privileged groups to increase their ownership in the wealth of the nation; and

(f) Cooperate with the government, other cooperatives and people-oriented organizations to further the attainment of any of the foregoing objectives.

IV. Cooperative Principles

Every cooperative shall conduct its affairs in accordance with Filipino culture, good values and experience and the universally accepted principles of cooperation, which include, but are not limited to, the following:

(1) *Voluntary and Membership* — Cooperatives are voluntary organizations, open to all persons able to use their services and willing to accept the responsibilities of membership, without gender, social, racial, cultural, political, or religious discrimination.

(2) *Democratic Member Control* — Cooperatives are democratic organizations that are controlled by their members who actively participate in setting their policies and making decisions. Men and women serving as elected representatives, directors or officers are accountable to the membership. In primary cooperatives, members have equal voting rights of one-member, one-vote. Cooperatives at other levels are organized in the same democratic manner.

(3) *Member Economic Participation* — Members contribute to, and democratically control, the capital of their cooperative. At least part of that capital is the common property of the cooperative. They shall receive limited compensation or limited interest, if any, on capital subscribed and paid as a condition of membership. Members allocate surpluses for any or all of the following purposes: developing the cooperative by setting up reserves, part of which should at least be indivisible; benefiting members in proportion to their patronage of the cooperative's business, and, supporting other activities approved by the membership.

(4) *Autonomy and Independence* — Cooperatives are autonomous, self-help organizations controlled by their members. If they enter into agreements with other organizations, including government, or raise capital from external sources, they shall do so

on terms that ensure democratic control of their members and maintain their cooperative autonomy.

(5) *Education, Training, and Information* — Cooperatives shall provide education and training for their members, elected and appointed representatives, managers, and employees, so that they can contribute effectively and efficiently to the development of their cooperatives.

(6) *Cooperation Among Cooperatives* — Cooperatives serve their members most effectively and strengthen the cooperative movement by working together through local, national, regional, and international structures.

(7) *Concern for Community* — Cooperatives work for the sustainable development of their communities through policies approved by their members.

V. Cooperative Practices

Cooperatives follow certain operational guidelines and practice that helps them respond to local needs. Some are adopted from standard international practices and others from local innovations like the following:

- **Capital Formation** – Starting a new cooperative can create a need for substantial capital. A problem develops when trying to operate with limited membership equity capital. The task of financing a new cooperative with member equity alone is usually impossible. Therefore, the best source of additional funds needed is from members in the form of: a) membership fee or purchase of stock; b) agreement to withhold portion of net earnings profits; and c) by assessment based on units of products sold or purchased.
- **Cash Trading** – This is business done on a cash and carry basis. The customer enjoys at least the use of the goods and services for the cash payment he/she gives.

Cash trading promotes equality since anybody with cash can enjoy the service patronage. This practice can train members to observe the habit of balanced spending. Furthermore, the cooperative would be able to avoid bad debts and stabilize business operations. Finally, it is a way of increasing growth.

- **Selling at market price** - Cooperatives offer goods and services at prevailing market prices. This promotes stability. It can cope with operational expenses and cover up the negative effects of shrinkage, depreciation and losses. It helps maintain the prices of goods.
- **Cooperative can avoid destructive competition** - Fostering constructive competition among cooperatives will safeguard the interest of consumers. Cooperatives are encouraged to cooperate in unison and bring their joint power in the market up to the level achieved by enterprises that are operated for the benefit of other stakeholders. They cooperate in order to get a fair deal from the large scale buyers of their products. Consumers cooperate to get a better deal from manufacturers and suppliers. Credit cooperatives are formed to counter the power of large scale financial institutions. Price fixing agreements and cartel methods are prevented.
- **Constant expansion** - As organizations, cooperatives have to grow for community services. Expansion is a must. It is done intensively and extensively. New members should be recruited to accumulate more capital and savings to support operation of the expanded business and services which in the long run will provide more benefits for them. However, members in this regards should undergo continuous education and training to learn various management practices/techniques and effective financial supervision.
- **Quality standardized goods** - Cooperatives are intended to develop communities through the production of high quality goods and provision of better services. Cooperatives could help by patronizing only standardized products and services of high quality. Hence, different types of cooperatives will strive to improve their goods and services to stand competition with business establishments. This in turn will be instrumental in improving life in the country.

- **Cooperative wholesale business or interlending** - Cooperatives can be organized with enough people and capital. They respond to the needs of the community. Needs arise when there are people. The expansion of membership may result in wholesale business. In fact, to be effective, wholesale business, interlending could be done by primary societies. Defects from retail business could be avoided.

The benefits from the wholesale are considerable. Members can market and acquire the goods and services at the right price and quality. They can even lower and raise savings. They can also influence the production of badly needed goods and services.

- **Minimize expenditures** – A significant factor favoring the growth of cooperative is its being a community project. Its officers do not receive remuneration. If they get compensation, it is only in the form of reasonable per diems. When audit shows that the cooperative is not capable or can afford the minimum wage, only employees get paid regularly. Furthermore, laws may allow exemption from income and sales taxes. Minimizing expenses should not be taken as a remedy to cover up the weaknesses of the system. It is not to be conceived as form of dole-outs, but rather, it should be considered as motivation to make the movement stand on its own and soon attain its objectives. Once its objectives are achieved, the movement can take its rightful place in the development of the country.

VI. TYPES OF COOPERATIVES

Cooperatives may fall under any of the following types:

- 1) **Credit Cooperative** is one that promotes and undertakes savings and lending services among its members. It generates a common pool of funds in order to provide financial assistance and other related financial services to its members for productive and provident purposes;
- 2) **Consumers Cooperative** is one the primary purpose of which is to procure and distribute commodities to members and non-members;
- 3) **Producers Cooperative** is one that undertakes joint production whether agricultural or industrial. It is formed and operated by

its members to undertake the production and processing of raw materials or goods produced by its members into finished or processed products for sale by the cooperative to its members and non-members. Any end product or its derivative arising from the raw materials produced by its members, sold in the name of and for the account of the cooperative, shall be deemed a product of the cooperative and its members;

- 4) **Marketing Cooperative** is one which engages in the supply of production inputs to members and markets their products;
- 5) **Service Cooperative** is one which engages in medical and dental care, hospitalization, transportation, insurance, housing, labor, electric light and power, communication, professional and other services;
- 6) **Multi-purpose Cooperative** is one which combines two (2) or more of the business activities of these different types of cooperatives;
- 7) **Advocacy Cooperative** is a primary cooperative which promotes and advocates cooperativism among its members and the public through socially-oriented projects, education and training, research and communication, and other similar activities to reach out to its intended beneficiaries;
- 8) **Agrarian Reform Cooperative** is one organized by marginal farmers majority of which are agrarian reform beneficiaries for the purpose of developing an appropriate system of land tenure, land development, land consolidation or land management in areas covered by agrarian reform;
- 9) **Cooperative Bank** is one organized for the primary purpose of providing a wide range of financial services to cooperatives and their members;
- 10) **Dairy Cooperative** is one whose members are engaged in the production of fresh milk which may be processed and/or marketed as dairy products;
- 11) **Education Cooperative** is one organized for the primary purpose of owning and operating licensed educational institutions, notwithstanding the provisions of Republic Act No.

- 12) *Electric Cooperative* is one organized for the primary purpose of undertaking power generation, utilizing renewable sources, including hybrid systems, acquisition and operation of sub transmission or distribution to its household members;
- 13) *Financial Service Cooperative* is one organized for the primary purpose of engaging in savings and credit services and other financial services;
- 14) *Fishermen Cooperative* is one organized by marginalized fishermen in localities whose products are marketed either as fresh or processed products;
- 15) *Health Services Cooperative* is one organized for the primary purpose of providing medical, dental, and other health services;
- 16) *Housing Cooperative* is one organized to assist or provide access to housing for the benefit of its regular members who actively participate in the savings program for housing. It is co-owned and controlled by its members;
- 17) *Insurance Cooperative* is one engaged in the business of insuring life and property of cooperatives and their members;
- 18) *Transport Cooperative* is one which includes land and sea transportation, limited to small vessels, as defined or classified under the Philippine maritime laws, organized under the provisions of RA 9520;
- 19) *Water Service Cooperative* is one organized to own, operate and manage waters systems for the provision and distribution of potable water for its members and their households;
- 20) *Workers Cooperative* is one organized by workers, including the self-employed, who are at the same time the members and owners of the enterprise. Its principal purpose is to provide employment and business

opportunities to its members and manage it in accordance with cooperative principles; and

- (21) *Other types of cooperatives* as may be determined by the Authority.

VII. CATEGORIES OF COOPERATIVES

Cooperatives shall be categorized according to membership and territorial considerations as follows:

- (a) In terms of membership, a cooperative shall be categorized into:
- (i) *Primary* — The members of which are natural persons;
 - (ii) *Secondary* — The members of which are primaries; and
 - (iii) *Tertiary* — The members of which are secondary cooperatives; and
- (b) In terms of territory, cooperatives shall be categorized according to areas of operations which may or may not coincide with the political subdivisions of the country.

VIII. Privileges of Cooperatives

Cooperatives registered under RA 9520 shall, notwithstanding the provisions of any law to the contrary, be also accorded the following privileges:

- (1) Cooperatives shall enjoy the privilege of depositing their sealed cash boxes or containers, documents or any valuable papers in the safes of the municipal or city treasurers and other government offices free of charge, and the custodian of such articles shall issue a receipt acknowledging the articles received duly witnessed by another person;

- (2) Cooperatives organized among government employees, notwithstanding any law or regulation to the contrary, shall enjoy the free use of any available space in their agency, whether owned or rented by the Government;
- (3) Cooperatives rendering special types of services and facilities such as cold storage, ice plant, electricity, transportation, and similar services and facilities shall secure a franchise therefore, and such cooperatives shall open their membership to all persons qualified in their areas of operation;
- (4) In areas where appropriate cooperatives exist, the preferential right to supply government institutions and agencies rice, corn and other grains, fish and other marine products, meat, eggs, milk, vegetables, tobacco and other agricultural commodities produced by their members shall be granted to the cooperatives concerned;
- (5) Preferential treatment in the allocation of fertilizers, including seeds and other agricultural inputs and implements, and in rice distribution shall be granted to cooperatives by the appropriate government agencies;
- (6) Preferential and equitable treatment in the allocation or control of bottomries of commercial shipping vessels in connection with the shipment of goods and products of cooperatives;
- (7) Cooperatives and their federations, such as farm and fishery producers and suppliers, market vendors and such other cooperatives, which have for their primary purpose the production and/or the marketing of products from agriculture, fisheries and small entrepreneurial industries and federations thereof, shall have preferential rights in the management of public markets and/or lease of public market facilities, stalls or spaces: *Provided*, That these rights shall only be utilized exclusively by cooperatives: *Provided, further*, That no cooperative forming a joint venture, partnership, or any other similar arrangement with a non-cooperative entity can utilize these rights;
- (8) Cooperatives engaged in credit services and/or federations shall be entitled to loans, credit lines, rediscounting of their loan notes, and other eligible

papers with the Development Bank of the Philippines, the Land Bank of the Philippines, and other financial institutions except the Bangko Sentral ng Pilipinas (BSP);

The Philippine Deposit Insurance Corporation (PDIC) and other government agencies, government-owned and controlled corporations and government financial institutions shall provide technical assistance to registered national federations and unions of cooperatives which have significant engagement in savings and credit operations in order for these federations and unions to establish and/or strengthen their own autonomous cooperative deposit insurance systems;

- (9) A public transport service cooperative may be entitled to financing support for the acquisition and/or maintenance of land and sea transport equipment, facilities and parts through the program of the government financial institutions. It shall have the preferential right to the management and operation of public terminals and ports whether land or sea transport where the cooperative operates and on securing a franchise for active or potential routes for the public transport;
- (10) Cooperatives transacting business with the Government of the Philippines or any of its political subdivisions or any of its agencies or instrumentalities, including government-owned and controlled corporations shall be exempt from pre-qualification bidding requirements, notwithstanding the provisions of Republic Act No. 9184, otherwise known as the Government Procurement Act;
- (11) Cooperatives shall enjoy the privilege of being represented by the provincial or city fiscal or the Office of the Solicitor General, free of charge, except when the adverse party is the Republic of the Philippines;
- (12) Cooperatives organized by faculty members and employees of educational institutions shall have the preferential right in the management of the canteen and other services related to the operation of the educational institution where they are employed: *Provided*, That such services are operated within the premises of the said educational institution; and
- (13) The appropriate housing agencies and government financial institutions shall create a special window for financing housing projects undertaken by

cooperatives, with interest rates and terms equal to, or better than those given for socialized housing projects. This financing shall be in the form of blanket loans or long term wholesale loans to qualified cooperatives, without need for individual processing.

IX. Powers and Capacities of Cooperative

A cooperative registered under RA 9520 shall have the following powers and capacities:

- (1) To the exclusive use of its registered name, to sue and be sued;
- (2) Of succession;
- (3) To amend its articles of cooperation in accordance with the provisions of RA 9520;
- (4) To adopt bylaws not contrary to law, morals or public policy, and to amend and repeal the same in accordance with RA 9520;
- (5) To purchase, receive, take or grant, hold, convey, sell, lease, pledge, mortgage, and otherwise deal with such real and personal property as the transaction of the lawful affairs of the cooperative may reasonably and necessarily require, subject to the limitations prescribed by law and the Constitution;
- (6) To enter into division, merger or consolidation;
- (7) To form subsidiary cooperatives and join federations or unions, as provided in RA 9520;
- (8) To avail of loans, be entitled to credit and to accept and receive grants, donations and assistance from foreign and domestic sources, subject to the conditions of said loans, credits, grants, donations or assistance that will not undermine the autonomy of the cooperative. The CDA, upon written request, shall provide necessary assistance in the documentary requirements for the loans, credit, grants, donations and other financial support;
- (9) To avail of preferential rights granted to cooperatives under Republic Act No. 7160, otherwise known as the Local Government Code, and other laws, particularly those in the grant of franchises to establish, construct, operate and

maintain ferries, wharves, markets or slaughterhouses, and to lease public utilities, including access to extension and on-site research services and facilities related to agriculture and fishery activities;

- (10) To organize and operate schools in accordance with Republic Act No. 9155, Governance of Basic Education Act of 2001 and other pertinent laws; and
- (11) To exercise such other powers granted by RA 9520 or necessary to carry out its purpose or purposes as stated in its articles of cooperation.

X. Benefits Derived from the Cooperatives

Cooperative members derive several benefits from the operation of their cooperative. The main benefit is economic since members get a share of the cooperative's net surplus by patronizing its services. A certain percentage of the cooperative's net surplus is returned to the members after a period of one year usually during their annual general assembly. It is called patronage refund.

Patronage refund shall be distributed to the members in proportion to their patronage to the services of the cooperative. The distribution shall be in accordance with their cooperative policies based on RA 9520. Through the patronage refund, members are actually savings while using the services of the cooperative.

Cooperative members receive economic benefits according to the degree of their contribution to the growth of the cooperative by way of patronizing its products and services.

Those who do not patronize the services of the cooperative are not entitled to patronage refund. They are only entitled to interest on their capital invested in the cooperative.

XI. Other Benefits Derived from Cooperative

- Cooperative members develop the habit of thrift and savings;
- Cooperative serves as the training ground for its members in simple business operation, democratic leadership and responsible citizenship;
- It offers opportunities to its member's potential capabilities in productive purposes which may redound to their material benefits and progress; and
- A cooperative teaches its members self-discipline, self-reliance and other desirable attitudes which make every member a better individual and a better member of society.

XII. Allocation and distribution of Net Surplus

1. Net Surplus. — Notwithstanding the provisions of existing laws, the net surplus of cooperatives shall be determined in accordance with its bylaws. Every cooperative shall determine its net surplus at the close of every fiscal year and at such other times as may be prescribed by the bylaws.

Any provision of law the contrary notwithstanding, the net surplus shall not be construed as profit but as an excess of payments made by the members for the loans borrowed, or the goods and services availed by them from the cooperative or the difference of the rightful amount due to the members for their products sold or services rendered to the cooperative including other inflows of assets resulting from its other operating activities and which shall be deemed to have been returned to them if the same is distributed as prescribed herein.

2. Order of Distribution. — The net surplus of every cooperative shall be distributed as follows:

- 2.1. An amount for the *reserve fund*, which shall be at least *ten per centum (10%)* of the net surplus: Provided, That, in the first five (5) years of operation after registration, this amount shall not be less than *fifty per centum (50%)* of the net surplus:

- a) The reserve fund shall be used for the stability of the cooperative and to meet net losses in its operations. The general assembly may decrease the amount allocated to the reserve fund when the reserve fund already exceeds the share capital.

Any sum recovered on items previously charged to the reserve fund shall be credited to such fund.

- b) The reserve fund shall not be utilized for investment, other than those allowed in this Code. Such sum of the reserve fund in excess of the share capital may be used at anytime for any project that would expand the operations of the cooperative upon the resolution of the general assembly.
- c) Upon the dissolution of the cooperative, the reserve fund shall not be distributed among the members. The general assembly may resolve:
 - (i) To establish a usufructuary trust fund for the benefit of any federation or union to which the cooperative is affiliated; and
 - (ii) To donate, contribute, or otherwise dispose of the amount for the benefit of the community where the cooperative operates. If the members cannot decide upon the disposal of the reserve fund, the same shall go to the federation or union to which the cooperative is affiliated.

2.2 An amount for the *education and training fund*, shall be not more than *ten per centum (10%)* of the net surplus. The bylaws may provide that certain fees or a portion thereof be credited to such fund. The fund shall provide for the training, development and similar other cooperative activities geared towards the growth of the cooperative movement:

- (a) Half of the amounts transferred to the education and training fund annually under this subsection shall be spent by the cooperative for education and training purposes; while the other half may be remitted to a union or federation chosen by the cooperative or of which it is a member. The said union or federation shall submit to the Authority and to its contributing cooperatives the following schedules:
 - (i) List of cooperatives which have remitted their respective Cooperative Education and Training Funds (CETF);

- (ii) Business consultancy assistance to include the nature and cost; and
 - (iii) Other training activities undertaken specifying therein the nature, participants and cost of each activity.
 - (b) Upon the dissolution of the cooperative, the unexpended balance of the education and training fund appertaining to the cooperative shall be credited to the cooperative education and training fund of the chosen union or federation.
- 2.3. An amount for the *community development fund*, which shall not be less than *three per centum (3%)* of the net surplus. The community development fund shall be used for projects or activities that will benefit the community where the cooperative operates.
- 2.4. An *optional fund*, a land and building, and any other necessary fund the total of which shall not exceed *seven per centum (7%)*.
- 2.5. The remaining net surplus shall be made available to the members in the form of *interest on share capital* not to exceed the normal rate of return on investments and patronage refunds: Provided, That any amount remaining after the allowable interest and the patronage refund have been deducted shall be credited to the reserve fund.

The sum allocated for patronage refunds shall be made available at the same rate to all patrons of the cooperative in proportion to their individual patronage: Provided, That:

- (a) In the case of a member patron with paid-up share capital contribution, his proportionate amount of patronage refund shall be paid to him unless he agrees to credit the amount to his account as additional share capital contribution;
- (b) In the case of a member patron with unpaid share capital contribution, his proportionate amount of patronage refund shall be credited to his account until his share capital contribution has been fully paid;
- (c) In the case of a non-member patron, his proportionate amount of patronage refund shall be set aside in a general fund for such patrons and shall be allocated to individual non-member patrons only upon request and presentation of evidence of the amount of his patronage. The amount so allocated shall be credited to such patron toward payment of the minimum capital contribution for membership. When a sum equal to this amount has accumulated at any time

within a period specified in the bylaws, such patron shall be deemed and become a member of the cooperative if he so agrees or requests, and complies with the provisions of the bylaws for admission to membership; and

- (d) If within any period of time specified in the bylaws, any subscriber who has not fully paid his subscribed share capital or any non-member patron who has accumulated the sum necessary for membership but who does not request nor agree to become a member or fails to comply with the provisions of the bylaws for admission to membership, the amount so accumulated or credited to their account together with any part of the general fund for non-member patrons shall be credited to the reserve fund or to the education and training fund of the cooperative, at the option of the cooperative.

XIII. Tax Treatment of Cooperatives

Duly registered cooperatives under RA 9520 which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws.

XIV. Tax and Other Exemptions

Cooperatives transacting business with both members and non-members shall not be subject to tax on their transactions with members. In relation to this, the transactions of members with the cooperative shall not be subject to any taxes and fees, including but not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with non-members shall enjoy the following tax exemptions:

- (1) Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature. Such cooperatives 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 (DTI). All tax-free importations shall not be

sold nor the beneficial ownership thereof is transferred to any person until after five (5) years, otherwise the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the imposed tax and/or duties.

(2) Cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (P10,000,000.00) shall pay the following taxes at the full rate:

(a) **Income Tax** — On the amount allocated for interest on capitals; *Provided*, That the same tax is not consequently imposed on interest individually received by members: *Provided, further*, That cooperatives, regardless of classification, are exempt from the income tax from the date of registration with the Authority;

(b) **Value-Added Tax** — On transactions to non-members; *Provided, however*, That cooperatives duly registered with the Authority, are exempt from the payment of the value-added tax, subject to Section 109, sub-sections L, M and N of Republic Act No. 9337, the National Internal Revenue Code, as amended: *Provided*, That the exempt transaction under Section 109 (L) shall include sales made by cooperatives duly registered with the Authority organized and operated by its members to undertake the production and processing of raw materials or of goods produced by its members into finished or processed products for sale by the cooperative to its members and non-members: *Provided, further*, That any processed product or its derivative arising from the raw materials produced by its members, sold in the name and for the account of the cooperative, shall be deemed a product of the cooperative: *Provided, finally*, That at least twenty-five *per centum* (25%) of the net income of the cooperatives is returned to the members in the form of interest and/or patronage refunds;

(c) All other taxes unless otherwise provided herein; and

(d) Donations to charitable, research and educational institutions and reinvestment to socio-economic projects within the area of operation of the cooperative may be tax deductible.

(3) All cooperatives, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment of local taxes and taxes on transactions with banks and insurance companies: *Provided*, That all sales or services rendered for non-members shall be subject to the applicable percentage taxes except sales made by producers, marketing or service cooperatives: *Provided, further*, That nothing in this

Article shall preclude the examination of the books of accounts or other accounting records of the cooperative by duly authorized internal revenue officers for internal revenue tax purposes only, after previous authorization by the Authority;

- (4) In areas where there are no available notaries public, the judge, exercising his ex officio capacity as a notary public, shall render service, free of charge, to any person or group of persons requiring the administration of an oath or the acknowledgment of articles of cooperation and instruments of loan from cooperatives not exceeding Five hundred thousand pesos (P500,000.00).
- (5) Any register of deeds shall accept for registration, free of charge, any instrument relative to a loan made under RA 9520 which does not exceed Two hundred fifty thousand pesos (P250,000.00) or the deeds of title of any property acquired by the cooperative or any paper or document drawn in connection with any action brought by the cooperative or with any court judgment rendered in its favor or any instrument relative to a bond of any accountable officer of a cooperative for the faithful performance of its duties and obligations.
- (6) Cooperatives shall be exempt from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under RA 9520, or where such action is brought by the Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative.
- (7) All cooperatives shall be exempt from putting up a bond for bringing an appeal against the decision of an inferior court or for seeking to set aside any third party claim: *Provided*, That a certification of the Authority showing that the net assets of the cooperative are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as a sufficient bond.
- (8) Any security issued by cooperatives shall be exempt from the provisions of the Securities Act provided such security shall not be speculative.