



REPUBLIC OF THE PHILIPPINES

Department of Finance
Cooperative Development Authority
Bureau of Internal Revenue

Joint Administrative Order No. 001-2025

Dated __ November 2024

- TO** : All cooperatives registered with the Cooperative Development Authority (CDA) and issued a Certificate of Tax Exemption (CTE) from the Bureau of Internal Revenue (BIR) and Others Concerned
- SUBJECT** : Rules to Implement the Penalty Provision Under Section 308 of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 11534, Otherwise Known as the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act, as Implemented by Department of Finance and Department of Trade and Industry Joint Administrative Order (DOF-DTI JAO) No. 001-2023, Issued on 09 March 2023

SECTION 1. *Legal bases.* Section 308 of the NIRC of 1997, as amended by the CREATE Act, and Rule IV (Penalties) of the DOF-DTI JAO No. 001-2023¹, prescribe the penalties for non-compliance with the filing and reportorial requirements by cooperatives registered with the CDA and officials or employees of the CDA.

SECTION 2. *Scope and coverage.* These Guidelines shall govern the imposition of appropriate penalties for the failure to submit mandated reports on tax incentives and benefits data as required under Section 305 of the NIRC of 1997, as amended, covering the taxable year 2023 and onwards, of the following:

- a. All CDA-registered cooperatives with a valid and subsisting CTE and availing of incentives; and
- b. Officials and/or employees of the CDA.

¹ Approved on 09 March 2023 and took effect on 15 April 2023.

SECTION 3. Reportorial requirements. The following reports shall be submitted on or before the deadline indicated:

- a. By registered cooperatives with valid and subsisting CTE and availing of tax incentives:

Report	Submitted by	Submitted to	Deadline
1. Annual Tax Incentives Report (ATIR) or Annex "A"	CDA-registered cooperatives	Appropriate extension office of the CDA	Within thirty (30) calendar days from the statutory deadline for filing tax returns and payment of taxes or on or before May 15 of each year , covering all the tax incentives and benefits of the preceding taxable year
2. Annual Benefits Report (ABR) or Annex "B"			

- b. By the CDA

Report	Submitted by	Submitted to	Deadline
1. Consolidated ATIR per cooperative or Annex "C"	CDA	Fiscal Incentives Review Board (FIRB) and BIR	Within sixty (60) calendar days from the statutory deadline for filing of tax returns and payment of taxes or on or before June 15 of each year , covering all the tax incentives and benefits of the preceding taxable year
2. Consolidated ABR per cooperative or Annex "D"	CDA	FIRB	
3. Masterlist of all registered cooperatives or Annex "E"	CDA	FIRB and BIR	30 days after the close of each calendar year

If the last day of the deadline indicated falls on a Saturday, a Sunday, a legal holiday in the place where the CDA extension office or the FIRB office is located, or on a day when work suspension in the CDA extension office or the FIRB office is declared in whole or in part, the last day of filing shall be until the next working day.

The CDA and all registered cooperatives availing incentives shall use **FIRB Form No. 3003AS**, which can be accessed and downloaded from the FIRB Website at <https://firb.gov.ph/download/firb-form-3003as-atir-and-abr-of-cooperatives-v2-2/> in complying with the reportorial requirements.

SECTION 4. Punishable acts. The following acts shall be punishable under these Guidelines:

- a. Failure of the CDA-registered cooperative to submit, without justifiable reason, the reportorial requirements of each year covering all the tax incentives and benefits of the preceding taxable year.

For this purpose, partial or incomplete, and/or delayed compliance shall be treated as non-compliance. There is partial or incomplete compliance when a registered cooperative submits to the concerned CDA extension office either the ATIR or ABR only; or submits both reports, but consolidation thereof by the CDA cannot be adequately made due to incomplete data fields. On the other hand, there is delayed compliance when the registered cooperative submits the reportorial requirements beyond the statutory deadline.

- b. Failure on the part of any official or employee of the CDA to provide or furnish, without justifiable reason, the required tax incentives report or other data or information within the prescribed period.

SECTION 5. Penalties. The following penalties shall be imposed for non-compliance with the reportorial requirements:

- a. Upon determination of the CDA and after due process, any registered cooperative that fails to comply with reportorial requirements under Section 3 hereof, shall be imposed with the following penalties:
 1. Payment of a fine amounting to One Hundred Thousand Pesos (PhP100,000.00) for the first offense;

2. Payment of a fine amounting to Five Hundred Thousand Pesos (PhP500,000.00) for the second offense; and
3. Revocation of the BIR-issued CTE of the registered cooperative for the third offense.

The monetary penalties for the first and second offenses shall be imposed and collected by the CDA: *Provided*, That any and all penalties imposed and collected by the CDA under these Guidelines shall accrue to the general fund.

In case of a third offense, the BIR may revoke the CTE through any of the following modes:

1. *Motu proprio*;
2. Upon order of the FIRB pursuant to Section 297(E) of the NIRC of 1997, as amended by the CREATE Act; or
3. Upon the recommendation of the CDA. For this purpose, the CDA shall, within sixty (60) calendar days from the deadline of submitting the reportorial requirements and, after due process, submit to the BIR a list of cooperatives that have failed to comply with the reportorial requirements for the third time. The list shall include a recommendation for the revocation of the BIR-issued CTE. Upon receiving the recommendation for revocation and supporting documents, the BIR shall revoke the CTE and provide the CDA and the FIRB a copy of such revocation.

The penalties prescribed herein may only be imposed after due notice to the registered cooperative and after the lapse of the period for justification provided under Section 7 hereof.

- b. Any official or employee of the CDA who fails without justifiable reason to provide or furnish the required tax incentives report or other data or information within the prescribed period shall be penalized, after due process, by a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws.

SECTION 6. *Effect of revocation of CTE.* Registered cooperatives whose CTEs have been revoked by the BIR shall be liable for the payment of taxes, including

surcharges, interests, and compromise penalties, if any. Upon payment of taxes, registered cooperatives can re-apply for the issuance of a CTE, which shall be effective only upon the lapse of the period of prohibition to avail of the tax exemption, subject to the appropriate rules and regulations to be promulgated by the BIR.

SECTION 7. *Procedures.* If the registered cooperative fails to submit the ATIR and ABR on or before the deadline, the CDA shall issue a Show Cause Order (SCO) and shall give a non-extendible deadline of fifteen (15) calendar days from the receipt of the SCO to comply and submit justification for non-compliance. The SCO shall contain the following:

- a. A statement that the registered cooperative failed to submit the required reports under Section 305 of the NIRC of 1997, as amended by the CREATE Act;
- b. A directive to submit the required reports or submit amended ATIR and/or ABR in case of partial or incomplete submission;
- c. A directive to file written justification with supporting documents within fifteen (15) calendar days from receipt of the SCO;
- d. The frequency of non-compliance; and
- e. A statement of the possible imposable penalties.

In case of partial or incomplete submission, the CDA shall send a Notice of Deficiency to the official email address and via registered mail to the registered address of the cooperative for correction or compliance. The registered cooperative shall comply with the findings within fifteen (15) calendar days from the receipt of the Notice of Deficiency. Non-compliance within the said period shall cause the issuance of SCO.

If the registered cooperative fails to comply within the reglementary period provided in the SCO, the CDA may cause the issuance of an Order of Default and the imposition of the penalties in accordance with the provisions of Section 5 hereof. The Order of Default shall contain a demand to pay the appropriate fines for the first and second offenses or a recommendation for the revocation of the CTE for the third offense.

SECTION 8. *Payment of fines by installment.* In case of financial incapacity to pay the applicable fines for non-compliance, payment by installment shall be allowed within two (2) years from the receipt of the Order of Default with a demand to pay. For this purpose, registered cooperatives need to establish and offer proof to the CDA of its financial incapacity to settle the monetary

penalties. The CDA may extend the installment period up to three (3) years for micro-cooperatives or those with assets of up to Three Million Pesos (PhP3,000,000.00), unless otherwise adjusted.

Non-payment of the appropriate monetary penalties may be a ground for the non-issuance of, or suspension and revocation of the Certificate of Compliance of the registered cooperative in accordance with the provisions of CDA Memorandum Circular No. 2022-19 or the *"Guidelines Prescribing the Requirements for the Issuance of a Certificate of Compliance and the Grounds for the Non-Issuance, Suspension and Revocation"*.

SECTION 9. Exempting circumstances. Upon favorable recommendation of the concerned CDA Extension Office Director and approval of the Board of Directors, the penalties for non-submission of reportorial requirements may be waived if it is sufficiently established that the failure to submit is not due to the fault of the registered cooperative but is attributable to acts of God or force majeure. The registered cooperative may submit the following documents in support of its justification:

- a. Letter of application for relief in the submission of reportorial requirements, signed by the Chairperson and/or the General Manager of the registered cooperative;
- b. Certification issued by the Local Government Unit (LGU) or Barangay Certificate where the principal office of the registered cooperative is located, stating the occurrence of such force majeure or fortuitous event; and
- c. Other similar documents as may be required by the CDA.

In all instances, the registered cooperative bears the burden of proving that the failure to comply with the reportorial requirements is not due to its fault.

SECTION 10. Request for reconsideration. Registered cooperatives previously subjected to monetary fines due to non-submission of, or delayed, partial, or incomplete submission of the reportorial requirements may request reconsideration based on any valid and reasonable grounds.

After reviewing and evaluating the request for reconsideration, the Regional Director of the CDA-Extension Office shall endorse the same, together with its recommendation, to the Board of Directors through the Administrator, whose decision thereon shall be final.

The request for reconsideration herein provided shall be availed of by registered cooperatives only once during their term of existence.

SECTION 11. *Role of the CDA.* Consistent with the CDA's mandate to protect the interest and welfare of the members of cooperatives, the CDA shall exert all efforts to provide technical and operational support to registered cooperatives to ensure compliance with the submission of the reportorial requirements under the NIRC of 1997, as amended, DOF-DTI JAO No. 001-2023, and these Guidelines.

SECTION 12. *Submission of reports to the FIRB.* The CDA shall, within 30 calendar days after the close of each calendar year, submit to the FIRB the following information as part of the Masterlist Report (Annex "E" of FIRB FORM 3003AS) on all registered cooperatives:

- a. List of compliant registered cooperatives;
- b. List of non-compliant registered cooperatives and the appropriate penalties imposed, if any;
- c. List of non-compliant cooperatives whose penalties were waived by the CDA. For this purpose, the CDA shall likewise provide the ground/s relied upon for the non-imposition of penalties;
- d. List of non-compliant registered cooperatives that applied for reconsideration with the CDA and the corresponding action/s taken thereon; and
- e. Other information deemed necessary by the FIRB.

SECTION 13. *Grace periods.* The CDA may, under compelling circumstances, request from the FIRB a non-extendible grace period of thirty (30) calendar days from the deadline for the submission of the consolidated ATIR (Annex "C"), consolidated ABR (Annex "D"), and Masterlist (Annex "E"): *Provided*, That the request for a grace period shall be filed at least five (5) days before the statutory deadline for the submission of required reports.

SECTION 14. *Transitory provisions.*

- A. The first submission of the reportorial requirements covering the taxable year 2023 shall be as follows:
 1. The ATIR and ABR of registered cooperatives with CTE shall be submitted to the concerned CDA Regional Extension Office within sixty (60) calendar days from the effectivity of the JAO.

2. The CDA shall submit the consolidated ATIR and ABR to the FIRB and BIR within ninety (90) calendar days from the effectivity of the JAO.

3. For the masterlist, the following transitory rules shall apply:

Report	Covered period	Submitted by	Submitted to	Deadline
Masterlist of all registered cooperatives as of 31 December 2023	Taxable year 2023 and prior years	CDA	BIR	Within sixty (60) calendar days from the effectivity of the JAO
Masterlist of all registered cooperatives with issued CTEs as of 31 December 2023	Taxable year 2023 and prior years	BIR	FIRB	Within ninety (90) calendar days from the effectivity of the JAO

Thereafter, the CDA shall simultaneously submit to the FIRB and the BIR a masterlist of all registered cooperatives covering the taxable year 2024 and onwards on or before January 30 of the immediately following year. The BIR shall then submit to the FIRB a masterlist of all registered cooperatives with issued CTEs covering the taxable year 2024 and onwards on or before January 30 of the immediately following year.

B. Imposition of penalties. In consideration of the welfare of registered cooperatives, the penalties prescribed herein shall be imposed as follows:

1. Beginning calendar year 2024 and thereafter, only large and medium-category cooperatives shall be subject to penalties imposed for non-submission or late submission of reportorial requirements.
2. Beginning calendar year 2025 and thereafter, all small-category cooperatives shall be subject to appropriate penalties for non-submission or late submission of reportorial requirements.
3. Beginning calendar year 2026 and thereafter, all micro-cooperatives shall be subject to appropriate penalties for non-submission or late submission of reportorial requirements.

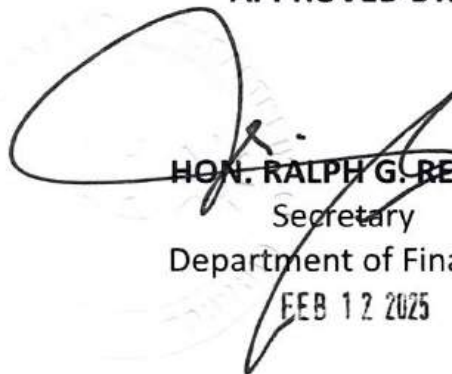
Provided, That the classification of registered cooperatives according to asset size shall be governed by CDA Memorandum Circular (MC) No. 2007-07, dated 07 June 2007, unless otherwise amended.

Provided, finally, That the grace period herein prescribed shall exclusively apply to the imposition of appropriate penalties for failure to submit or late submission of reports. It shall be incumbent upon all registered cooperatives, irrespective of asset size or classification, to ensure timely submission of the reportorial requirements to the CDA within the statutory deadline.

SECTION 15. Repealing Clause. All guidelines, circulars, or similar issuances inconsistent with these Guidelines are hereby repealed or modified accordingly.

SECTION 16. Effectivity. These Guidelines shall take effect fifteen (15) days following its publication in a newspaper of general circulation and filing of three (3) copies with the Office of National Administrative Register (ONAR), University of the Philippine (UP) Law Center, Diliman, Quezon City pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

APPROVED BY:


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