

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

October 5, 2011

REVENUE MEMORANDUM CIRCULAR NO. 47-2011

SUBJECT : Clarification on the taxability of interest from savings and time deposits of cooperative's members under Section 24 (B) of the National Internal Revenue Code (Tax Code) of 1997, as amended

TO : All Internal Revenue Officers and Others Concerned

Section 24 (B) of the Tax Code, as amended, provides that a twenty percent (20%) final tax shall be imposed on amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements, thus:

“*SECTION 24. Income Tax Rates. —*

x x x

(B) Rate of Tax on Certain Passive Income: —

Interests, Royalties, Prizes, and Other Winnings. — A final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements;

x x x”

However, in Dumaguete Cathedral Credit Cooperative vs. CIR¹, the Supreme Court ruled that cooperatives are not required to withhold taxes on interest from savings and time deposits of their members. The pertinent ruling reads:

“xxx xxx xxx

There is nothing in the ruling to suggest that it applies only when deposits are maintained in a bank. Rather, the ruling clearly states, without any qualification, that since interest from any Philippine currency bank deposit and yield or any other monetary benefit from deposit substitutes are paid by banks, cooperatives are not required to withhold the corresponding tax on the interest from savings and time deposits of their members. This interpretation was reiterated in BIR Ruling [DA-591-2006] dated October 5, 2006, which was issued by Assistant Commissioner James H. Roldan upon the request of the cooperatives for a confirmatory ruling on several issues, among which is the alleged exemption of interest income on members' deposit (over and above the share capital holdings) from the 20% final withholding tax. In the said ruling, the BIR opined that:

xxx xxx xxx

¹ G.R. No. 182722, January 22, 2010

3. Exemption of interest income on members' deposit (over and above the share capital holdings) from the 20% Final Withholding Tax.

The National Internal Revenue Code states that a "final tax at the rate of twenty percent (20%) is hereby imposed upon the amount of interest on currency bank deposit and yield or any other monetary benefit from the deposit substitutes and from trust funds and similar arrangement . . ." for individuals under Section 24(B)(1) and for domestic corporations under Section 27(D)(1). Considering the members' deposits with the cooperatives are not currency bank deposits nor deposit substitutes, Section 24(B)(1) and Section 27(D)(1), therefore, do not apply to members of cooperatives and to deposits of primaries with federations, respectively.

It bears stressing that interpretations of administrative agencies in charge of enforcing a law are entitled to great weight and consideration by the courts, unless such interpretations are in a sharp conflict with the governing statute or the Constitution and other laws. In this case, BIR Ruling No. 551-88 (sic) and BIR Ruling [DA-591-2006] are in perfect harmony with the Constitution and the laws they seek to implement. Accordingly, the interpretation in BIR Ruling No. 551-88 (sic) that cooperatives are not required to withhold the corresponding tax on the interest from savings and time deposits of their members, which was reiterated in BIR Ruling [DA-591-2006], applies to the instant case."

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Moreover, no less than our Constitution guarantees the protection of cooperatives. Section 15, Article XII of the Constitution considers cooperatives as instruments for social justice and economic development. At the same time, Section 10 of Article II of the Constitution declares that it is a policy of the State to promote social justice in all phases of national development. In relation thereto, Section 2 of Article XIII of the Constitution states that the promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance. Bearing in mind the foregoing provisions, we find that an interpretation exempting the members of cooperatives from the imposition of the final tax under Section 24 (B) (1) of the NIRC is more in keeping with the letter and spirit of our Constitution.

All told, we hold that petitioner is not liable to pay the assessed deficiency withholding taxes on interest from the savings and time deposits of its members, as well as the delinquency interest of 20% per annum."

All concerned are hereby enjoined to be guided accordingly and give this circular as wide a publicity as possible.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue