

November 12, 2001

REVENUE REGULATIONS NO. 20-2001

SUBJECT : **Regulations Implementing Articles 61 and 62 of Republic Act No. 6938, Otherwise Known as the “Cooperative Code of the Philippines”, in Relation to R.A. Nos. 7716, 8241 and 8424, Thereby Amending Revenue Memorandum Circular (RMC) No. 48-91.**

TO : **All Internal Revenue Officers and Others Concerned.**

SECTION 1. SCOPE. - Pursuant to Section 244, in relation to Section 4 of the Tax Code of 1997, these regulations are hereby promulgated (1) to implement the provisions of Articles 61 and 62 of R.A. No. 6938, as effectively amended by R.A. Nos. 7716, 8241 and 8424 granting tax exemptions to cooperatives and (2) to prescribe the guidelines for the availment thereof, thereby amending RMC No. 48-91.

SEC. 2. DEFINITIONS.

- a) **Cooperative** - means cooperative duly registered with the Cooperative Development Authority or whose registration has been confirmed by the latter, including primary, secondary or tertiary cooperatives.
- b) **Cooperative Development Authority** – means the government agency in charge of the registration and regulation of cooperatives as such, hereinafter referred to as the CDA.
- c) **Registration** - means the operative act granting juridical personality to a proposed cooperative as evidenced by a Certificate of Registration from the CDA.
- d) **Certificate of Tax Exemption** - means the ruling granting exemption to the cooperative issued by the Bureau of Internal Revenue.
- e) **Income Tax** - means corporate/cooperative income tax under the National Internal Revenue Code.
- f) **Sales Tax** - refers to either the value-added tax or percentage tax.

- g) **Net Surplus/Net Savings** – refers to the net amount arising from the operations of the cooperative, belonging to its members, not construed as profit, but as excess of payments made by the members for the loans borrowed or the goods and services bought from the cooperative which shall be made available to them in the form of interest not to exceed the normal rate of return on investments and patronage refund.
- h) **Undivided Net Savings** – refers to the amount arising from net surplus or any portion thereof which the Board of Directors of the General Assembly of the cooperative decides not to divide or make available to members in the form of interest on share capital, patronage refund, reserve refund, education and training fund, optional fund or any other statutory reserve; this also includes the amount arising from the net surplus or any portion thereof which the cooperative is unable to divide because the General Assembly of the cooperative has not been convened for more than two (2) years;
- i) **Accumulated Reserves** – refers to the amount of accrued sum of money annually retained and deducted from the net surplus which is not intended for allocation or distribution to the members, usually deposited in the bank for the protection of and stability of the cooperative commonly referred to as the General Reserve Fund.

SEC. 3. EXEMPTION FROM TAXES –

3.1 Duly registered cooperatives dealing/transacting business with members only shall be exempt from paying the following taxes for which they are directly liable, viz:

- a. Income Tax on income from operations;
- b. Value-Added Tax (VAT) under Section 109 pars. (r), (s), (t) and (u) of the Tax Code of 1997;
- c. 3% Percentage Tax under Section 116 of the Tax Code of 1997;
- d. 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 cooperatives;
- e. Excise tax under Title VI of the Tax Code of 1997;
- f. Documentary Stamp Tax imposed under Title VII of the Tax Code of 1997, provided, however, that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax; and

- g. Annual Registration Fee of P500.00 under Section 236(B) of the Tax Code of 1997.

3.2 Taxability/Exemption of duly registered cooperatives dealing/transacting business with both members and non-members:

I. For cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (P10,000,000.00)-

- a. Exemption from all national internal revenue taxes for which they are directly liable, as enumerated under Sec. 3.1 of these Regulations.

II. For cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (P10,000,000.00)-

- a. Exemption from income tax for a period of ten (10) years from the date of registration with the CDA, provided, that at least twenty-five percent (25%) of the net income of the cooperative is returned to the members in the form of interest and/or patronage refund.

For cooperatives whose exemptions were removed by Executive Order No. 93, the ten-year period shall be reckoned from March 10, 1987 (meaning, tax exemption is valid only until March 10, 1997).

After the lapse of the above ten-year period, they shall be subject to income tax at the full rate on the amount allocated for interests on capital, provided that the same is not consequently imposed on interest individually received by members;

The tax base for all cooperatives liable to income tax shall be the net surplus arising from business transactions with non-members after deducting the amounts for the statutory reserve funds as provided for in the Cooperative Code and other laws.

- b. Exemption from VAT under Section 109 (r), (s) (t) and (u), 3% percentage tax under Section 116, and the P500.00 annual registration fee imposed under Section 236 (B), all of the Tax Code of 1997;
- c. Subject to all other internal revenue taxes unless otherwise provided by law; and

- d. Entitled to limited or full deductibility from the gross income of amount donated to duly accredited charitable, research and educational institutions and reinvestment to socio-economic projects within the area of operation of the cooperative.

Notwithstanding the foregoing, all income of the cooperative not related to its main/principal business/es shall be subject to all the appropriate taxes under the Tax Code of 1997. This is applicable to all types of cooperatives, whether dealing purely with members or both members and non-members.

In any event, all types of cooperatives are required to register with the Bureau of Internal Revenue.

SEC. 4. TAXABILITY OF COOPERATIVES TO OTHER INTERNAL REVENUE TAXES. - All Cooperatives, regardless of classification shall be subject to:

- a) 20% final income tax on interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements and royalties derived from sources within the Philippines;
- b) 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system;
- c) Capital Gains Tax on sales or exchanges of real property classified as capital assets or shares of stock;
- d) Documentary Stamp Taxes on transactions of cooperatives dealing with non-members when the accumulated reserves and undivided net savings of such cooperatives exceed Ten Million Pesos (P10,000,000.00);
- e) VAT billed on purchases of goods and services, except the VAT on the importation by agricultural cooperatives of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce, and importation by electric cooperatives of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity, pursuant to Section 109 (r) and (s) of the Tax Code of 1997 but which are not available locally as certified by the Department of Trade and Industry. All tax-free importations shall not be transferred to any person until five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the tax and/or the duties thereon ;

- f) All other taxes for which the cooperatives are not otherwise expressly exempted by any law.

Moreover, all cooperatives, regardless of classification, are considered as withholding agents and are required to file withholding tax returns and remit withholding taxes on all income payments that are subject to withholding.

SEC. 5. TAXABILITY OF MEMBERS/STOCKHOLDERS OF COOPERATIVES.- The exemption of the cooperatives does not extend to their individual members. Thus, members of cooperatives are liable to pay all the necessary internal revenue taxes under the National Internal Revenue Code, including the tax on earnings derived from their capital contribution. Provided, however, that interests received by members of a cooperative with accumulated reserves and undivided net savings greater than Ten Million Pesos (P10,000,000.00), after the lapse of the ten-year exemption under Sec. 3.2 (II) above, shall no longer be taxable in the hands of such members.

SEC. 6. DOCUMENTS TO BE ATTACHED TO THE LETTER-APPLICATION FOR THE ISSUANCE OF TAX EXEMPTION CERTIFICATE. - A Letter-Application signed by the President/General Manager of the Cooperative, or his duly authorized representative, should be submitted to the Legal Division of the Revenue Region having jurisdiction over the principal place of business of the cooperative, attaching thereto the following documents:

- a) Articles of Cooperation and By-Laws;
- b) Certified true copy of the Certificate of Registration issued by the CDA;
- c) Certified true copy of the Certificate of Confirmation of Registration from the CDA (in the case of Cooperative already existing and previously registered under P.D. 175, P.D. 775, and E.O. 898, before the creation of the CDA);
- d) Certificate under oath by the President/General Manager whether the Cooperative is transacting business with members only or with both members and non-members, whichever is applicable;
- e) Original copy of the Certificate of Good Standing from the CDA;
- f) Certification under oath by the Chairman/President/General Manager of the Cooperative (if previously registered as above stated) as certified by the CDA, as to the amount of accumulated reserves and undivided net savings, and that at least 25% of the net income is returned to the members in the form of interest and/or patronage refund;

- g) Certification under oath of the list of members and the share capital contribution of each member; and
- h) Latest Financial Statements duly audited by an independent CPA.

SEC. 7. VALIDITY OF TAX EXEMPTION CERTIFICATE.- The Tax Exemption Certificate shall be valid during such period that the Cooperative is in good standing as ascertained by the CDA on an annual basis.

SEC. 8. ANNUAL RETURN AND DOCUMENTS TO BE FILED WITH THE BUREAU OF INTERNAL REVENUE. - A copy of the Certificate of Good Standing issued by the CDA to the cooperative shall, together with the Annual Information Return (for non-taxable cooperative) or Income Tax Return (for taxable cooperative) and Financial Statements, be submitted to the Bureau of Internal Revenue on or before the 15th day of the fourth month following the close of the taxable year.

SEC. 9. VERIFICATION OF ANNUAL INFORMATION RETURN/INCOME TAX RETURN, FINANCIAL STATEMENTS, ATTACHMENTS AND RECORDS. - Pursuant to the last paragraph of Section 235 of the Tax Code of 1997, any provision of existing general or special law to the contrary notwithstanding, the books of accounts and other pertinent records, as well as the operations of all cooperatives, may be examined by the Bureau of Internal Revenue annually for purposes of ascertaining compliance with the conditions under which they have been granted tax exemptions or tax incentives, and their tax liabilities, if any, upon previous consultation with the CDA..

SEC. 10. REPEALING CLAUSE. - All revenue rulings, regulations and other issuances, including Revenue Memorandum Circular No. 48-91, or parts thereof which are inconsistent with these Regulations are hereby amended or repealed accordingly.

SEC. 11. EFFECTIVITY. - These Regulations shall take effect upon approval hereof.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

(Original Signed)
RENÉ G. BAÑEZ
Commissioner of Internal Revenue