

[CDA, February 21, 2010]

JOINT RULES AND REGULATIONS IMPLEMENTING ARTICLES 60, 61 AND 144 OF REPUBLIC ACT NO. 9520, OTHERWISE KNOWN AS THE "PHILIPPINE COOPERATIVE CODE OF 2008" IN RELATION TO RA NO. 8424 OR THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

SECTION 1. Scope - Pursuant to the provisions of Sections 4 and 244 of the National Internal Revenue Code of 1997 (NIRC), as Amended, and Article 144 of RA 9520, this Joint Rules and Regulations are hereby promulgated to implement Articles 60 and 61 of RA No. 9520 granting tax exemption to cooperatives, prescribe the guidelines for the availment thereof and for other purposes.

SECTION 2. Construction - The provisions of this Joint Rules and Regulations shall be construed and applied in accordance with and in furtherance of the declared policy, concepts and principles enunciated under Articles 2, 3, and 4 of RA 9520, without prejudice to the provisions of Section 4 of the NIRC, as Amended.

In case of conflict or ambiguity which may arise in the implementation of this Joint Regulations or in case there is any doubt as to the meaning of any provision of this Regulation or any other regulation issued in pursuance to RA 9520, the same shall be resolved and construed liberally in favor of the cooperatives and their members as provided for in Article 142 of RA 9520.

SECTION 3. Definition of Terms -

a) Accumulated Reserves – refers to the accumulated amount of money annually deducted from the net surplus, which shall be less than fifty (50%) for the first five years of operation after registration and at least ten per centum (10%) of the net surplus thereafter, intended not for the allocation or distribution to the members but for the protection and stability of the cooperative, commonly referred to as the Reserve Fund.

b) Bureau of Internal Revenue – refers to the government agency entrusted with the power to assess and collect all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties and fines connected therewith, hereinafter referred to as the BIR.

c) Business Transaction - refers to any business activity or livelihood engaged in by the cooperative where such cooperative generates savings.

d) Capital Assets – refers to the property held by the taxpayer (whether or not connected with trade or business), but does not include stock in

trade of the taxpayer or other property of a kind which would properly be included in inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property, used in the trade or business, of a character which is subject to the allowance for depreciation.

e. Certificate of Good Standing – refers to the certificate issued annually by the CDA to cooperatives which comply with the requirements provided in CDA-Memorandum Circular No. 2008-03, and any subsequent amendments thereto.

For internal revenue tax purposes, said Certificate of Good Standing is one of the essential requirements for the grant of the Certificate of Tax Exemption/Ruling provided for in the next paragraph.

f) Certificate of Tax Exemption/Ruling – refers to the certificate/ruling issued by BIR granting exemption to a cooperative, which is valid for a period of five (5) years from the date of issue.

g) Cooperative – refers to an autonomous and duly registered association of persons, with a common bond of interest, who have voluntarily joint 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 the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

h) Cooperative Development Authority – refers to the government agency created under R.A. 6939 mandated to register, regulate and develop cooperatives, hereinafter referred to as the CDA.

i) Interest on Share Capital – refers to the interest earned by the member's paid-up to the capitalization of the cooperative. It is based on the average share capital contribution of members computed on a per month basis against the pre-set amount earmarked by the board of directors for interest on share capital.

j) Patronage Refund – refers to the refund or return to the members of net savings generated from the operations of the cooperative.

k) Registration – refers to the operative act granting juridical personality to a proposed cooperative as evidenced by a Certificate of Registration issued by the CDA.

l) Related operations/transactions - refers to transactions of cooperatives which are part of the objectives and purposes as enumerated in the Articles of Cooperation.

m) Transaction with members – refers to the cooperative activity that provides goods and services to members where the cooperative generates net savings/surplus.

n) Transaction with non-members – refers to the cooperative activity that provides goods and services to non-members where the cooperative generates net savings/surplus.

o) Undivided Net Surplus/Undivided Net Savings - refers to the net amount arising from the operations of the cooperative after deducting the operational expenses from revenue generated, not construed as profits, but as excess of payments made by the members for the loans borrowed or the goods and services bought from 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 in accordance with Article 86 of RA 9520 and the by-laws of the cooperative.

p) Unrelated Transactions - refers to transactions of cooperatives which are not part of the objectives and purposes as enumerated in the Articles of Cooperation.

SECTION 4. Types of Cooperatives - A cooperative may fall under any of the following types:

a. 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;

b. Consumer's Cooperative – is one of the primary purpose of which is to procure and distribute commodities to members and non-members;

c. Producer's Cooperative – is one that undertakes a 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 and for the account of the cooperative, shall be deemed a product of the cooperative and its members;

d. Marketing Cooperative – is one which engages in the supply of production inputs to members and markets their products;

e. 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;

f. Multipurpose Cooperative – is one which combines two (2) or more of the business activities of these different types of cooperatives;

g. 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;

h. 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;

i. Cooperative Bank – is one organized for the primary purpose of providing a wide range of financial services to cooperatives and their members;

j. Dairy Cooperative - is one whose members are engaged in the production of fresh milk which may be processed and/or marketed as dairy products;

k. Education Cooperative - is one organized for the primary purpose of owning and operating licensed educational institutions, notwithstanding the provisions of Republic Act No. 9155, otherwise known as the Governance of Basic Education Act of 2001;

l. Electric Cooperative – is one organized for the primary purpose of undertaking power generation, utilizing renewable energy sources, including hybrid systems, acquisition and operation of sub-transmission or distribution to its household members;

m. Financial Service Cooperative - is one organized for the primary purpose of engaging in savings and credit services and other financial services;

n. Fishermen Cooperative – is one organized by marginalized fishermen in localities whose products are marketed either as fresh or processed products;

o. Health Services Cooperative – is one organized for the primary purpose of providing medical, dental and other health services;

p. 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;

q. Insurance Cooperative - is one engaged in the business of insuring life and property of cooperatives and their members;

r. 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 this Code.

s. Water Service Cooperative - is one organized to own, operate and

manage water systems for the provision and distribution of potable water for its members and their households.

t. Worker's 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

u. Other types of cooperative as may be determined by the CDA.

SECTION 5. Categories of Cooperatives – Cooperatives shall be categorized according to membership and territorial consideration as follows:

a. In terms of Membership-Cooperative shall be categorized into:

- a.1 Primary – The members of which are natural persons;
- a.2 Secondary – The members of which are primaries; and
- a.3 Tertiary – The members of which are secondary cooperatives.

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.

SECTION 6. Classification of Cooperatives According to the Extent of the Tax Exemptions Granted

a. Those duly registered cooperatives which transact business with members only; and

b. Those duly registered cooperative which transact business with both members and non-members which are further sub-classified according to the following:

- b.1 Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million Pesos (Php10,000,000.00); and
- b.2 Cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (Php10,000,000.00)

SECTION 7. Tax Exemptions of Duly Registered Cooperatives which transact business with members only – Duly registered cooperatives dealing/transacting business with members only shall be exempt from paying any taxes and fees, including but not limited to:

- a. Income Tax imposed by Title II of the NIRC, as amended;
- b. Value-Added Tax (VAT) imposed under Title IV of the NIRC, as amended;
- c. Percentage tax imposed under Title V of the NIRC, as amended;
- d. Donor's Tax imposed under Title III of the NIRC, as amended, on donations to duly accredited charitable research and educational