



TAXABILITY OF COOPERATIVES

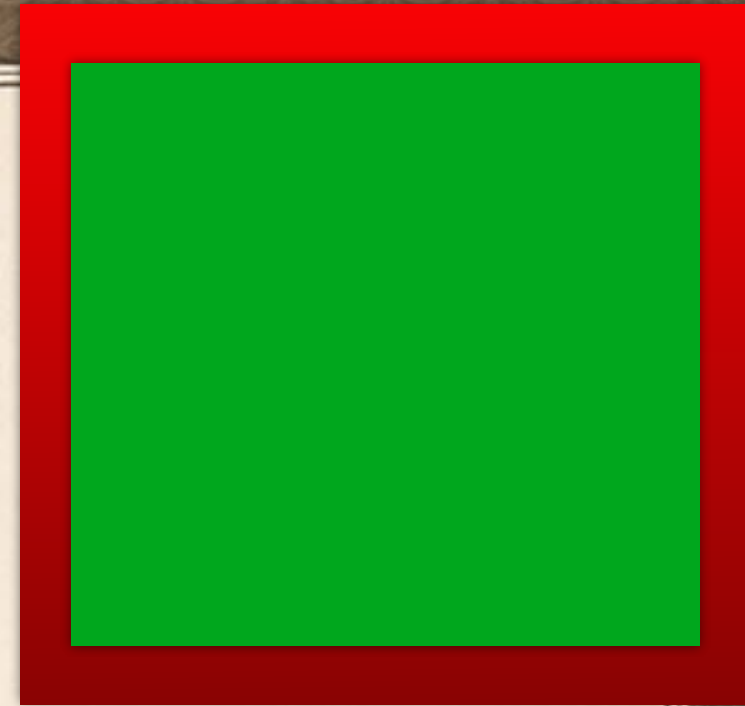
ATTY. ARNOLD A. APDUA, CPA
Managing Partner, AAA AND CO., CPAS
(Former BIR Revenue Officer)

ATTY. ARNOLD A. APDUA, CPA

- Managing Partner of AAA and Co., CPAs and owner of Bizmaker Tax and Accounting Consultancy Services.
 - Has seven (7) years as Revenue Officer of the Bureau of Internal Revenue (BIR) and ten (10) years as tax practitioner.
 - He was a tax lawyer of Quasha, Ancheta, Peña and Nolasco Law Office.
 - He was a professor of the University of Asia and the Pacific, University of the East and Pamantasan ng Lungsod ng Maynila.
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- He is a resource person and speaker for various Continuing Professional Development (CPD) tax seminars conducted by the following:
 - Philippine Institute of Certified Public Accountants (PICPA);
 - Asian Institute of Taxation (AIT);
 - Association of Certified Public Accountants in Commerce and Industry (ACPACI);
 - Association of Certified Public Accountants in Public Practice (ACPAPP);
 - Philippine Association of Management Accountants (PAMA);
 - University of Asia and the Pacific;
 - PowerMax Consulting Group; and
 - Various auditing firms.



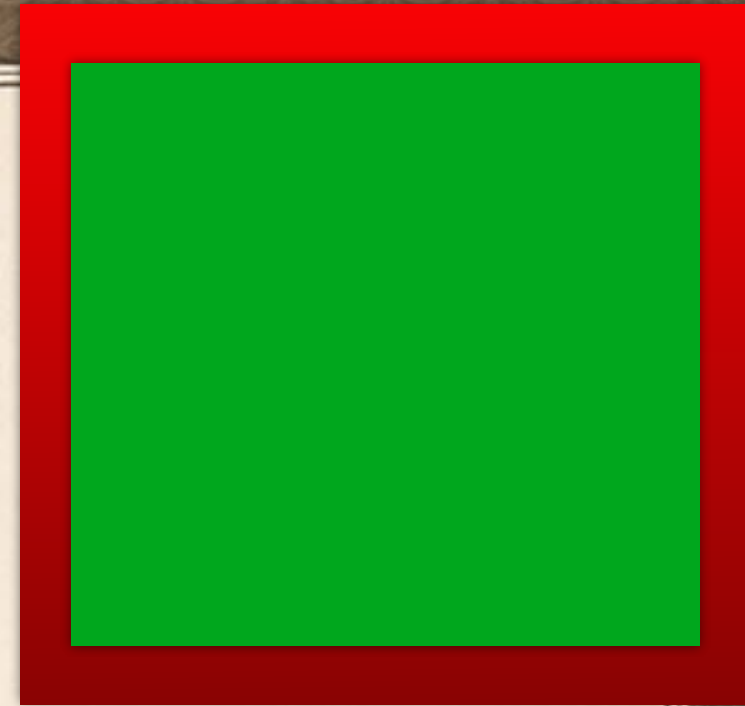
DEFICIENCY TAX COMPUTATION



SAMPLE COMPUTATION OF PENALTIES

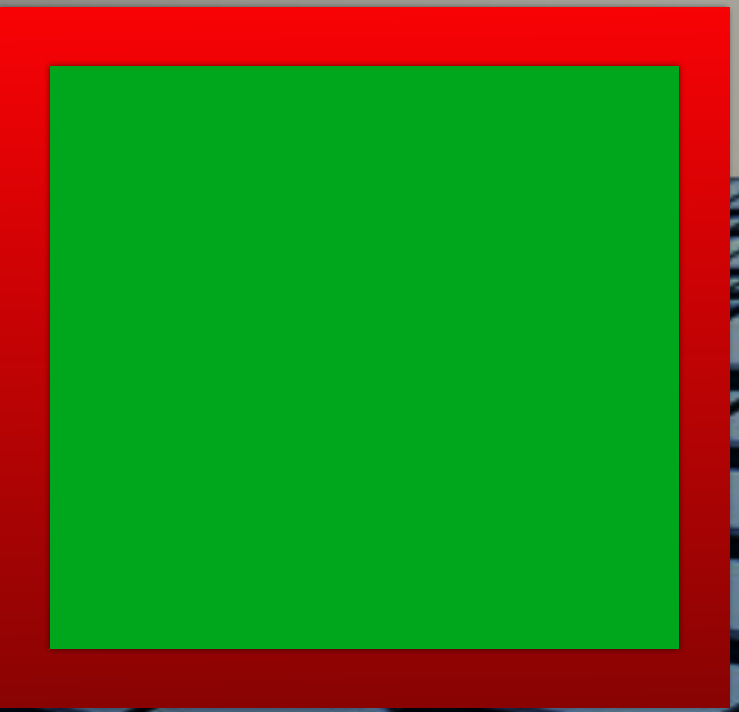
BASIC DOCUMENTARY STAMP TAX (2016)		100,000.00
ADD PENALTIES		
✓ SURCHARGE (25%)	25,000.00	
✓ INTEREST - 20% (1.16.17 TO 12.31.17)	19,726.03	
✓ INTEREST - 12% (1.1.18 TO 12.31.18)	12,000.00	
✓ COMPROMISE PENALTY	15,000.00	71,726.03
TOTAL DEFICIENCY DOCUMENTARY STAMP TAX		171,726.03

DEFICIENCY TAX COMPUTATION



SAMPLE COMPUTATION OF PENALTIES (FRAUDULENT)

BASIC DOCUMENTARY STAMP TAX (2016)		✓	100,000.00
ADD PENALTIES			
✓ SURCHARGE (50%)	50,000.00		
✓ INTEREST - 20% (1.16.17 TO 12.31.17)	19,726.03		
✓ INTEREST - 12% (1.1.18 TO 12.31.18)	12,000.00		
✓ COMPROMISE PENALTY	0.00	✓	81,726.03
TOTAL DEFICIENCY DOCUMENTARY STAMP TAX		✓	181,726.03



INTRODUCTION

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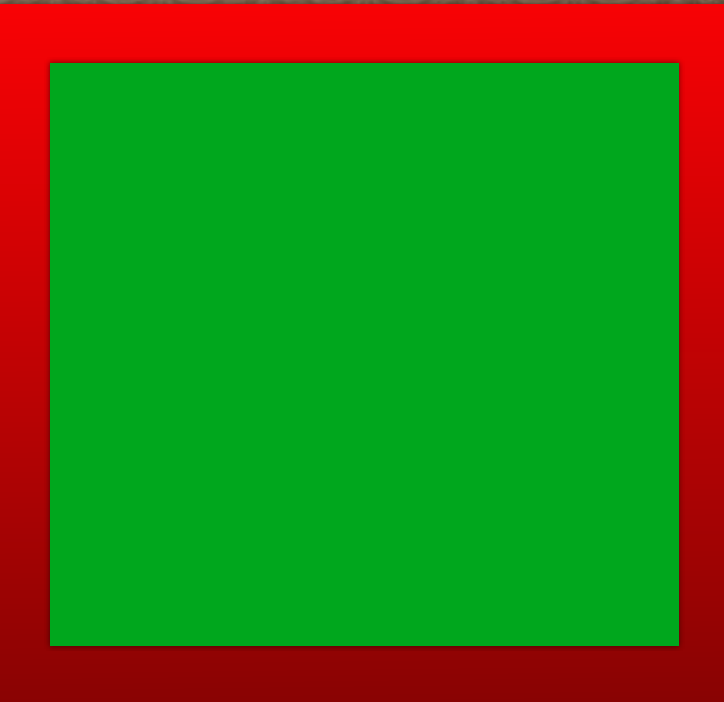
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Philippine Cooperative Code of 2008

Republic Act No. 9520



ART. 3. General Concepts. - 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 the risks and benefits of the undertaking in accordance with universally accepted cooperative principles.

TAXABILITY OF COOPERATIVES

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INCOME TAX

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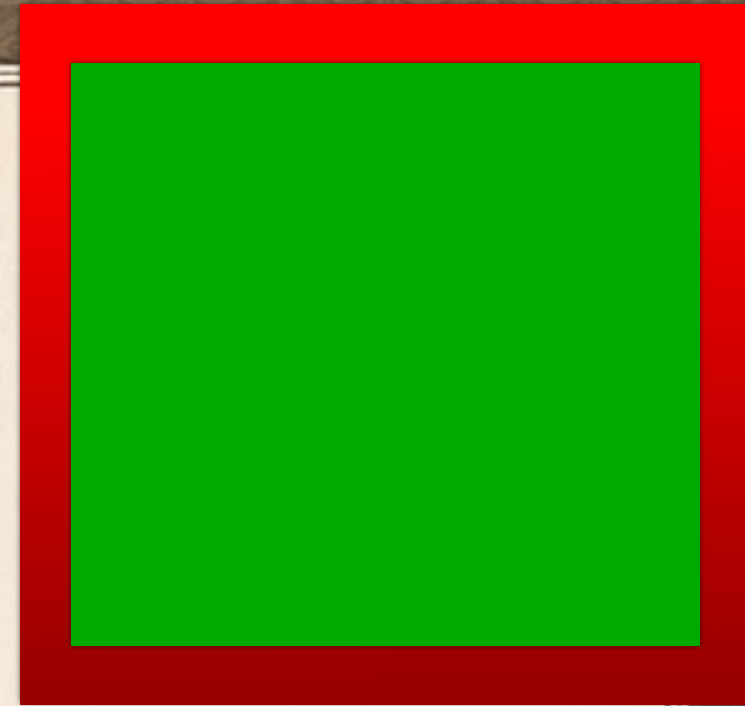
SEC. 27

Rates of Income Tax on Domestic Corporations

(A) *In General.* – Except as otherwise provided in this Code, [an income tax of thirty- five percent (35%)] AN INCOME TAX RATE OF TWENTY FIVE PERCENT (25%) EFFECTIVE JULY 1, 2020, is hereby imposed upon the taxable income derived during each taxable year from all sources within and without the Philippines by every corporation, as defined in Section 22(B) of this Code and taxable under this Title as a corporation, organized in, or existing under the laws of the Philippines.

SEC. 27

Rates of Income Tax on Domestic Corporations



PROVIDED, THAT CORPORATIONS WITH NET TAXABLE INCOME NOT EXCEEDING FIVE MILLION PESOS (P5,000,000.00) AND WITH TOTAL ASSETS NOT EXCEEDING ONE HUNDRED MILLION PESOS (P100,000,000.00), EXCLUDING LAND ON WHICH THE PARTICULAR BUSINESS ENTITY'S OFFICE, PLANT, AND EQUIPMENT ARE SITUATED DURING THE TAXABLE YEAR FOR WHICH THE TAX IS IMPOSED, SHALL BE TAXED AT TWENTY PERCENT (20%).



VALUE-ADDED TAX

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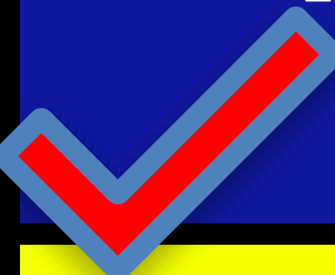
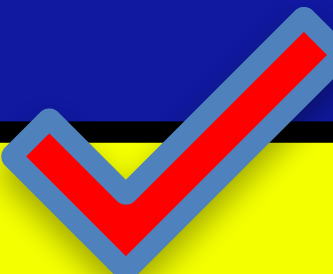
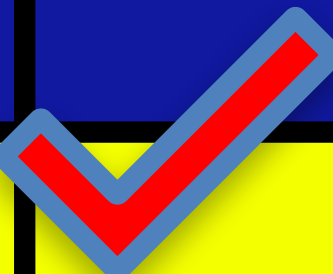
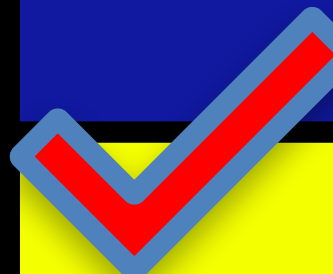
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VALUE-ADDED TAX

- VAT is a tax on consumption levied on the sale, barter, exchange or lease of goods or properties and services in the Philippines and importation of goods into the Philippines.
- The seller is the one statutorily liable for the payment of the tax but the amount of the tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services.
- In the case of importations, the importer is liable for the VAT.

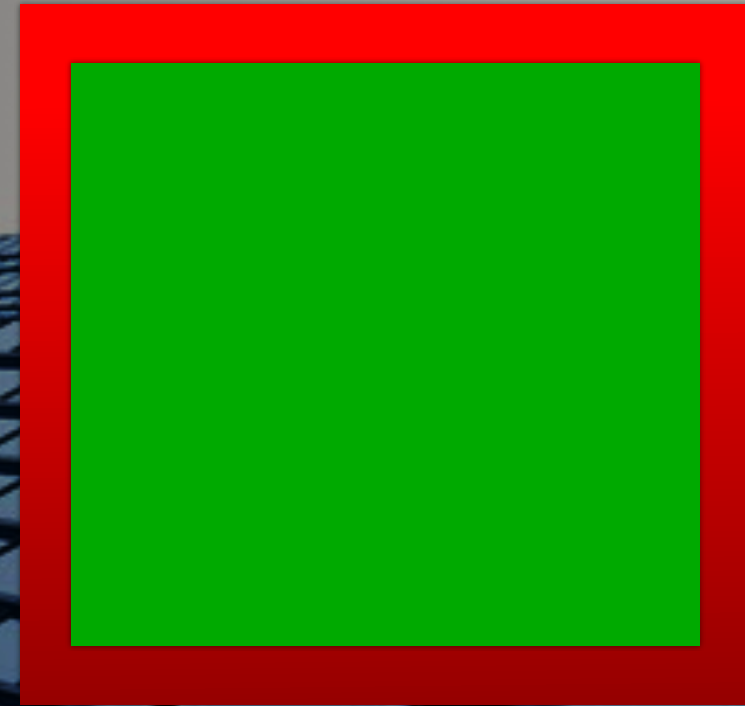
LEGAL BASIS



VATABLE	ZERO-RATED	EXEMPT	PERCENTAGE TAX
 Secs. 106(A)(1), 106(B), 107 and 108(A)	 Secs. 106(A)(2)(a) and 108(B)	 Secs. 109(1)(A) to (CC)	 Secs. 116 to 128

PERCENTAGE TAX

SECS. 116 TO 128



PERCENTAGE TAX RATE - SEC. 116

SEC. 4-116. Tax on Persons Exempt from VAT. —

Any person whose sales or receipts are exempt under Section 109(1) (CC) of the Tax Code from the payment of VAT and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: Provided, however, that the following shall be exempt from the payment of three percent (3%) percentage tax:

1. Cooperatives; and

(Revenue Regulations No. 04-21, [April 8, 2021])

PERCENTAGE TAX RATE - SEC. 116

✓ SEC. 4-116. Tax on Persons Exempt from VAT. —

✓ Self-employed individuals and professionals availing of the 8% tax on gross sales and/or receipts and other non-operating income, under Sections 24(A)(2)(b) and 24(A)(2)(c)(2)(a) of the Tax Code.

✓ Provided, further, that effective July 1, 2020 until June 30, 2023, the rate shall be one percent (1%).

(Revenue Regulations No. 04-21, [April 8, 2021])

WITHHOLDING TAX

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OVERVIEW OF WITHHOLDING TAX SYSTEM

- It is a manner or system of collecting taxes with the end in view of collecting in advance the full amount of tax or at least the approximate tax due from the payee on certain income payments.
- The amount withheld is a special trust fund in trust for government until paid or remitted by the Withholding Agent to the BIR.

PAYOR-PAYEE RELATIONSHIP



Payor

Payee

✓ Withholding Tax Agent

✓ Claims the Expense

✓ Has control over payment

✓ Issues 2307/2316; pays cash

- Subjected to Withholding

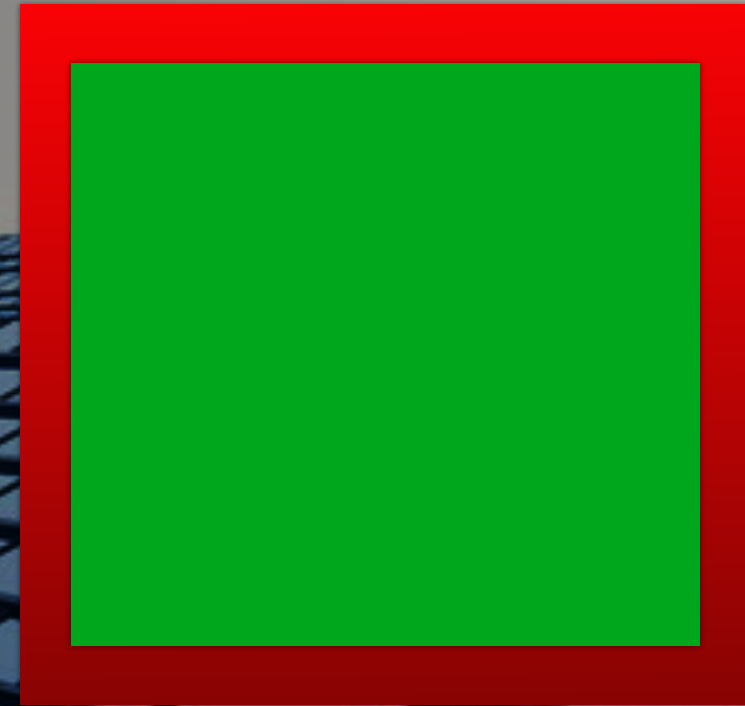
- Declares income

- At the receiving end

- Issues OR/Sales invoice

REVENUE MEMORANDUM

CIRCULAR NO. 012-10



Circularizing the Full Text of 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

REVENUE MEMORANDUM CIRCULAR NO. 012-10



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



REVENUE MEMORANDUM CIRCULAR NO. 012-10



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



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)

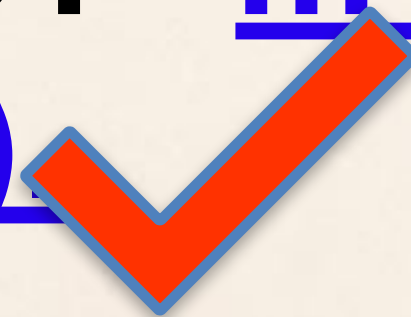


REVENUE MEMORANDUM CIRCULAR NO. 012-10



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

b.2) Cooperatives with accumulated reserves and undivided net savings of more than Ten Million Pesos (Php10,000,000.00)



REVENUE MEMORANDUM CIRCULAR

NO. 012-10



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;

REVENUE MEMORANDUM CIRCULAR

NO. 012-10



✓ **Percentage Tax** imposed under Title V of the NIRC, as amended;

✓ **Donor's Tax** imposed under Title III of the NIRC, as amended, on donations to duly accredited charitable research and educational institutions and reinvestment to socio-economic projects within the area of operation of the cooperatives;

REVENUE MEMORANDUM CIRCULAR NO. 012-10



✓ **Excise Tax** under Title VI of the NIRC, as amended, for which it is directly liable;

✓ **Documentary Stamp Tax** imposed under Title VII of the NIRC, as amended, provided, however, that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax;

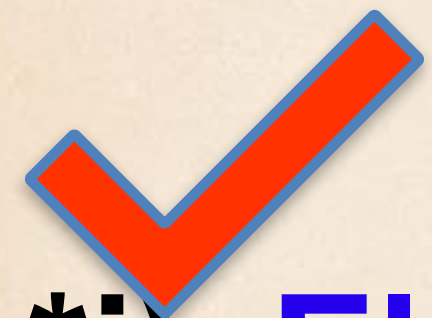
REVENUE MEMORANDUM CIRCULAR NO. 012-10



✓ g) Annual Registration Fee of P500.00 under Section 236(B) of the NIRC, as amended;

✓ h) All taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system; and

REVENUE MEMORANDUM CIRCULAR NO. 012-10



***i) Electric cooperatives duly registered with the Authority shall be exempt from VAT on revenues on systems loss and VAT on revenues on distribution, supply, metering and lifeline subsidy of electricity to their members.**

REVENUE MEMORANDUM CIRCULAR

NO. 012-10



SECTION 8. Taxability/Exemption of Duly Registered Cooperatives Which Transact Business with Members and Non-Members.

a) Cooperatives with accumulated reserves and undivided net savings of not more than Ten Million (Php10,000,000.00)

Exemption from all national internal revenue taxes for which these cooperatives are liable as enumerated under Section 7 of this Joint Rules and Regulations.

REVENUE MEMORANDUM CIRCULAR

NO. 012-10



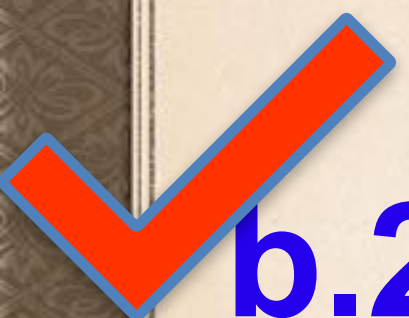

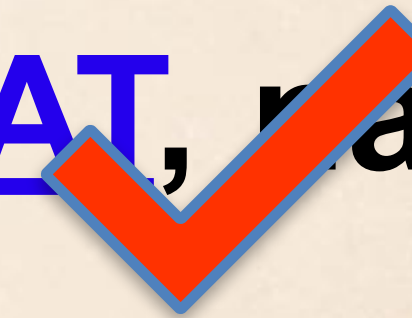
b.2) Business transactions with non-members — Cooperatives with accumulated reserves and undivided net savings of more than Php10,000,000.00 which transact with non-members shall:

b.2.1) Pay the following taxes at the full rate.

b.2.1.1) Income Tax — On the amount allocated for interest on capitals: Provided, That the same tax is not consequently imposed on interest individually received by the members. The tax base for all cooperatives liable to income tax shall be the net surplus arising from the business transactions with non-members after deducting the amounts for the statutory reserve funds as provided for in the Cooperative Code and other laws.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



 b.2.1.2) Value Added Tax (VAT) —  On transactions with non-members: Provided, however, That cooperatives, pursuant to Section 109, par. (L), (M) and (N) of the NIRC, as amended by RA 9337, shall be exempt from the imposition of VAT,  namely the following:

REVENUE MEMORANDUM CIRCULAR NO. 012-10

1. Sales by agricultural cooperatives duly registered and in good standing with the CDA to their members, as well as sale of their produce, whether in its original state or processed form, to non-members, their importation 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 (Sec. 109 (1) (L) of the NIRC, as amended).

REVENUE MEMORANDUM CIRCULAR NO. 012-10



- Provided, further, That the exempt transactions pursuant to the above shall include sales made by a duly registered agricultural cooperative 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 said cooperative to its members and non-members:

REVENUE MEMORANDUM CIRCULAR NO. 012-10



- Provided, finally, 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 to be product of the cooperative.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



- Sale by agricultural cooperatives to non-members can only be exempted from VAT if the producer of the agricultural products sold is the cooperative itself.
- If the cooperative is not the producer (e.g., trader), only those sales to its members shall be exempted from VAT.


REVENUE MEMORANDUM CIRCULAR NO. 012-10



- Exempt transactions shall include sales made by a duly registered agricultural cooperative 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 said cooperative to its members and non-members.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



 Products produced/processed by non-members or production not related to the purposes for which a cooperative is created as stated in its Articles of Cooperation even if sold in the name of said cooperative shall not be considered as produced/processed by said cooperative.

 To illustrate, raw materials produced by the members and processed by the cooperative shall be exempt from VAT.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



- It is to be reiterated however, that sale or importation of agricultural food products in their original state is exempt from VAT irrespective of the seller and buyer thereof, pursuant to Section 4.109-1 (B) (a) of Revenue Regulations No. 16-05, as amended.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



ii. Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the CDA (Sec. 109 (1) (M) of the NIRC, as amended); or

REVENUE MEMORANDUM CIRCULAR NO. 012-10



iii. Sales by non-agricultural, non-electric and non-credit cooperatives duly registered with the CDA: Provided, That the share capital contribution of each member does not exceed fifteen thousand pesos (P15,000) and regardless of the aggregate capital and net surplus ratably distributed among members (Sec. 109 (1) (N) of the NIRC, as amended);
or

REVENUE MEMORANDUM CIRCULAR NO. 012-10



iv. Transactions of cooperatives as may be deemed VAT-exempt under the NIRC.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



b.2.2) Be entitled to limited or full deductibility of donations to duly accredited charitable, research and educational institutions and reinvestment to socio-economic projects within the area of operation of such cooperative.

REVENUE MEMORANDUM CIRCULAR

NO. 012-10



b.2.3) Pursuant to Article 61 (3) be entitled to an exemption on taxes on transactions with insurance companies and banks, including but not limited to 20% final tax on interest deposits and 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system.

REVENUE MEMORANDUM CIRCULAR

NO. 012-10



✓
✓
p. 2.1.3) Percentage Tax — all sales of goods and/or services rendered to non-members shall be subject to the applicable percentage taxes imposed by Title V of the NIRC, as amended, except sales made by producers, marketing or service cooperatives;

✓
p. 2.1.4) All other Internal Revenue Taxes unless otherwise provided by the law;

REVENUE MEMORANDUM CIRCULAR NO. 012-10

SECTION 9. Taxability of Unrelated Income of Cooperative.

Notwithstanding the foregoing, all income of cooperatives not related to the main/principal business/es under its Articles of Cooperation shall be subject to all the appropriate taxes under the NIRC, as amended.

This is applicable to all types of cooperatives whether dealing purely with members or both members and non-members.

REVENUE MEMORANDUM CIRCULAR NO. 012-10



SECTION 10. Taxability of Cooperatives to Other Internal Revenue Taxes. — All cooperatives, **regardless of classification** shall be subject to:

a) **Capital Gains Tax** from sale of **shares of stock** or sale, exchange or other disposition of **real property classified as capital assets**;

REVENUE MEMORANDUM CIRCULAR NO. 012-10




 b) Documentary stamp taxes on transactions of cooperatives dealing with non-members, except transactions with banks and insurance companies,


Provided that whenever one party to the taxable document enjoys the exemption from DST, the other party who is not exempt shall be the one directly liable for the tax;

REVENUE MEMORANDUM CIRCULAR

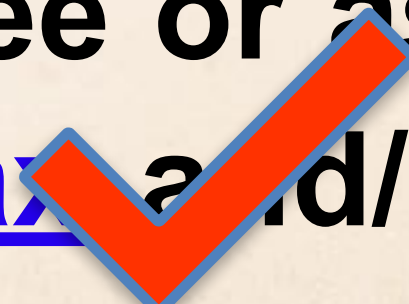
NO. 012-10



c) 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, pursuant to Section 109 (L) of the NIRC, as amended.



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;



REVENUE MEMORANDUM CIRCULAR NO. 012-10



✓ a) Withholding tax on compensation/wages, except in the case where an employee is a minimum wage earner; and creditable and final withholding taxes, if applicable.

✓ All cooperatives, regardless of classification, are considered as withholding agents on all income payments that are subject to withholding pursuant to the provisions of Revenue Regulations No. 2-98, as amended; and

REVENUE MEMORANDUM CIRCULAR NO. 012-10



✓ **e) All other taxes** for which cooperatives are directly liable and not otherwise expressly exempted by any law.

REVENUE MEMORANDUM CIRCULAR

NO. 012-10

SECTION 11. Taxability of Members/Share Holders of Cooperatives. — All members of cooperatives shall be liable to pay all the necessary internal revenue taxes under the NIRC, as amended, except for the following:

Any tax and fee, including but not limited to final tax on member's deposits or fixed deposits (otherwise known as share capital) with cooperatives, and documentary tax on transactions of members with the cooperative, and

REVENUE MEMORANDUM CIRCULAR NO. 012-10



✓ **Patronage Refund** which includes **all refunds, returns or rebates of the net savings** generated from the operation of the cooperative. ✓

REVENUE MEMORANDUM CIRCULAR

NO. 121-2021



Section 11. Taxability of Members/Share Holders of Cooperatives. — All members of cooperatives shall be liable to pay all the necessary internal revenue taxes under the NIRC, as amended, except for the following:

a) Any tax and fee, including but not limited to final tax on member's deposits or fixed deposits (otherwise known as share capital) with cooperatives, and documentary tax on transactions of members with the cooperative; and Xxx xxx xxx

REVENUE MEMORANDUM CIRCULAR NO. 121-2021



Member's deposit refers to savings and time deposits of both regular and associate members while share capital refers to member's paid up capital. Based on the abovementioned provisions, members of the cooperative are not liable to pay any tax and fee on the interest earned on member's deposits and fixed deposits (share capital). Hence, cooperatives are also not liable to withhold tax on the aforesaid interest payments to members.

Philippine Cooperative Code of 2008

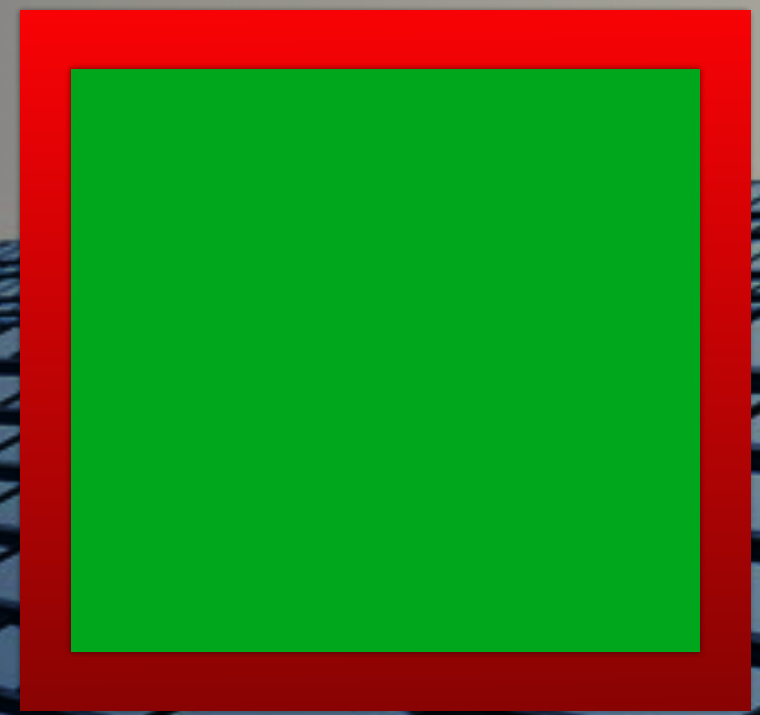
Republic Act No. 9520



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.***



REVENUE MEMORANDUM CIRCULAR NO. 064-09



Revocation of Tax Exemption Status of Davao
Contractors Development Cooperative (DACODECO)

REVENUE MEMORANDUM CIRCULAR NO. 064-09





DAVAO CONTRACTORS DEVELOPMENT COOPERATIVE (DACODECO)

“Please be informed that based on the investigation conducted by our BIR District Office pursuant to Letter of Authority No. 47574 dated 24 May 2007, it was discovered that the conditions for which you have been granted a tax exemption by this Office had not been kept. While you originally registered as a credit cooperative, you later caused your articles to be amended to enable your organization to be engaged in engineering construction and manpower services and in the distribution of construction materials to local government units (LGUs), including the City Government of Davao, which are non-members of DACODECO.”

REVENUE MEMORANDUM

CIRCULAR NO. 064-09



Your total revenues in 2005 alone, arising from your construction business, had already reached 169.5 Million Pesos.  Such activities, which are basically profit-oriented similar to a taxable partnership or corporation engaged in construction, no longer serve the objectives and purpose of a cooperative, and are therefore subject to the regular taxes imposed under the Tax Code. 



LAWS AFFECTING THE PHILIPPINE COOPERATIVE CODE OF 2008

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REPUBLIC ACT NO. 9520



Article 61 (3)

“x x x x  Provided further, That nothing in this article shall preclude the examination of the books of account or other accounting records of the cooperative by duly authorized internal revenue officers for internal revenue tax purposes only, only after previous authorization by the Authority.”

REPUBLIC ACT NO. 10963 (TRAIN LAW)


Section 6 (A) of RA 10963

After a return has been filed as required under the provisions of this law, the Commissioner or his duly authorized representative may authorized the examination of any taxpayer and the assessment of the correct amount of tax, notwithstanding any law requiring the prior authorization of any government agency or instrumentality.
Xxx”

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 109 (I) of RA 10963 (TRAIN ACT)

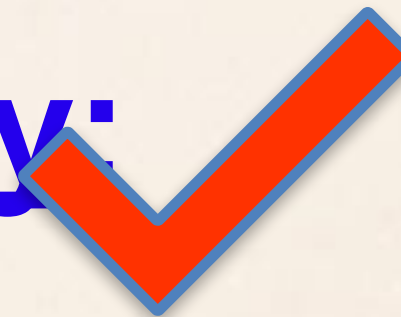
Sales by agricultural cooperatives  duly registered with the Cooperative Development Authority to their members as well as sale of their produce, whether in its original state or processed form, to non-members, their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively to the production and processing of their produce.

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 109 (m) of RA 10963 (TRAIN ACT)

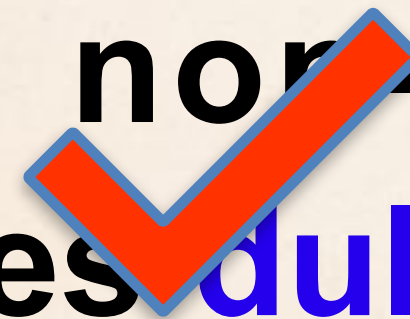
Gross receipts from lending activities by credit or multipurpose cooperatives duly registered with the Cooperative Development Authority:



REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 109 (n) of RA 10963 (TRAIN ACT)

Sales by  non-agricultural, non-electric and non-credit cooperatives duly registered with the Cooperative Development Authority: Provided, That the share capital contribution of each member does not exceed Fifteen thousand pesos (P15,000) and regardless of the aggregate capital and net surplus ratably distributed among the members.

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 108 (A) of RA 10963 (TRAIN ACT)

There shall be levied, assessed and collected a value added tax equivalent to 12% of gross receipts derived from the sale or exchange of services including the use and lease of properties:

Xxx sale of electricity by generation companies, transmission by any entity and distribution companies, including electric cooperatives

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 116 of RA 10963 (TRAIN ACT)

SECTION 116. Tax on Persons Exempt from Value added Tax (VAT). Any person whose sales or receipts are exempt under Section 109 (BB) of this Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: Provided, That cooperatives, and beginning January 1, 2019, self-employed and professionals with total annual gross sales and/or gross receipts not exceeding Five hundred thousand pesos (P500,000) shall be exempt from the three percent (3%) gross receipts tax herein .

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 5 (b) of RA 10963 (TRAIN ACT)

Provided, That the Cooperative Development Authority shall submit to the Bureau of Internal Revenue a tax incentive report, which shall include information on the income tax, value-added tax, and other tax incentives availed of by cooperatives registered and enjoying incentives under Republic Act No. 6938, as amended:

REPUBLIC ACT NO. 10963 (TRAIN LAW)



Section 5 (b) of RA 10963 (TRAIN ACT)

Provided, further, That the information submitted by the Cooperative Development Authority to the Bureau shall be submitted to the Department of Finance and shall be included in the database created under Republic Act No. 10708, otherwise known as 'The Tax Incentives Management and Transparency Act (TIMTA)'.

DOF-CDA JOINT ADMINISTRATIVE ORDER NO. 001-19

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DOF-CDA JAO No.001-19



RULE I: SECTION 1. Declaration of Policy. —

It is the policy of the State to promote fiscal accountability and transparency in the grant and management of tax incentives by developing means to promptly measure the government's fiscal exposure on these grants and to enable the government monitor, review and analyze the economic impact thereof, and thereby optimize the social benefits of such incentives.

DOF-CDA JAO No.001-19




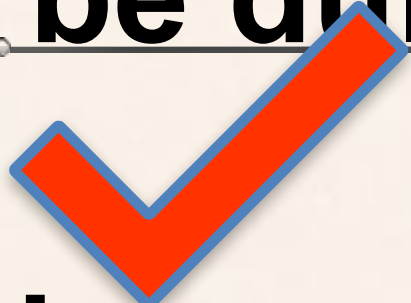
RULE II: SECTION 1. Filing of Tax Returns and Payment of Tax Liabilities. —

All registered cooperatives shall file their tax returns and pay their tax liabilities, if any, on or before the deadline as provided under the NIRC, as amended, using the electronic system for filing and payment of taxes of the BIR.

DOF-CDA JAO No.001-19



For purposes of  availing income-tax based incentives, only electronically filed tax returns shall be considered except when manual filing is allowed in accordance with BIR revenue issuances, in which case, the return manually filed must be duly stamped by the BIR.

Notwithstanding the manual filing, the  registered cooperatives are still required to file electronically within thirty days (30) days reckoned from the time the electronic filing/payment system is operational/available.

DOF-CDA JAO No.001-19



RULE II: SECTION 2. Submission of Annual Tax Incentives Report. —

All registered cooperatives which were issued a Certificate of Tax Exemption (CTE) and availed of tax incentives shall submit to the CDA the Annual Tax Incentives Report (Annex "A") as mandated under Section 4, paragraph (2), of RA No. 10708 and Section 3 of RA No. 10963.

DOF-CDA JAO No.001-19



The Report shall be duly signed by the Chairman and/or the General Manager of the concerned registered cooperative, and submitted to the CDA in accordance with the following schedules:

Accounting Period	Year Ending On	Period of Submission
Calendar Year	December 31	April 30 of the succeeding year
Fiscal Year	January - November	15 days from the deadline of filing of Annual Income Tax Return

DOF-CDA JAO No.001-19




RULE IV: SECTION 1. Effect of Failure to Submit the Reportorial Requirements by a Registered Cooperative. — Submission of the reportorial requirements under Rule II, Section 2 of this Order shall be a continuing requirement for the effectivity of the Certificate of Tax Exemption of a registered cooperative.


Failure to comply with the reportorial requirements by a registered cooperative shall have the following effects:


First Offense — CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of one (1) year from the date of revocation

DOF-CDA JAO No.001-19

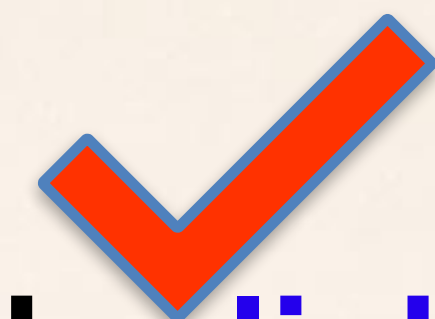


 Second Offense — CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of three (3) years from the date of revocation

 Third Offense — CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of five (5) years from the date of revocation

 Fourth Offense — CTE shall be deemed revoked and cooperative shall be prohibited from re-application

DOF-CDA JAO No.001-19



Registered cooperatives shall be liable for the payment of taxes immediately upon revocation of the certificate of tax exemption, inclusive of surcharge, interest and compromise penalty.



Upon payment of taxes, registered cooperatives can re-apply for the issuance of certificate of tax exemption which shall be effective only upon the lapse of the period of prohibition to avail of the tax exemption.

DOF-CDA JAO No.001-19



Pursuant to Art. 140, 6 (b) and (f) of RA 9520, providing information, reports or other documents to the CDA which the person knows to false or misleading, and failure to comply with an order or written instructions issued or given by the CDA are punishable by imprisonment not less than one (1) year nor more than five (5) years or fine of not more than Fifty thousand pesos (P50,000.00) or both at the discretion of the court.

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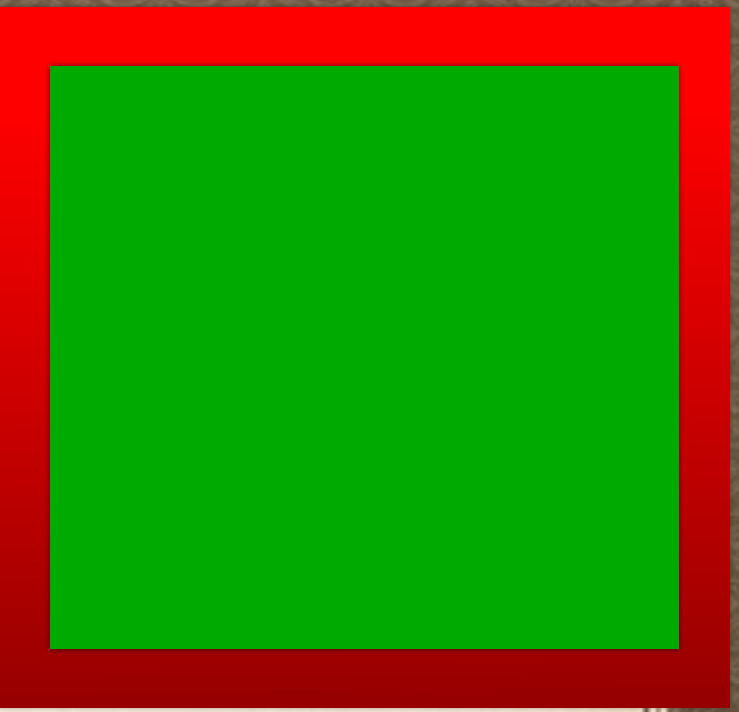
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REVENUE MEMORANDUM CIRCULAR NO. 124-20



Clarifying Certain Provisions of Revenue Memorandum Order No. 76-2010 in Relation to the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of Republic Act No. 9520, Otherwise Known as the "Philippine Cooperative Code of 2008" and Other Related Revenue Issuances

Q1: What are the requirements for securing a Certificate of Tax Exemption (CTE)?



1: Based on existing revenue issuances, the duly accomplished Application for Certificate of Tax Exemption for Cooperatives (BIR Form No. 1945) shall be submitted to the concerned Office with the following documentary requirements:

For New Application:

1. Certified True Copies of the Articles of Cooperation and By-Laws, as certified by the CDA;
2. Certified True Copy of the new Certificate of Registration issued by the CDA under the new Cooperative Code, as certified by the CDA;
3. Certified True Copy of the current Certificate of Good Standing issued by the CDA effective on the date of application;
4. Certified True Copy of the BIR Certificate of Registration of the Cooperative; and,
5. Original Copy of Certification under Oath of the List of Cooperative Members with their respective Taxpayer Identification Number (TIN), if already available, and their capital contributions prepared by the authorized official of the Cooperative.

Q1: What are the requirements for securing a Certificate of Tax Exemption (CTE)?


For Renewal:

1. Certified True Copies of the Latest Articles of Cooperation and By Laws, as certified by the CDA;
2. Certified True Copy of the new Certificate of Registration issued by the CDA under the new Cooperative Code, as certified by the CDA;
3. Certified True Copy of the current Certificate of Good Standing issued by the CDA effective on date of application; and
4. Certified True Copy of Latest financial statements of the immediately preceding year duly audited by a BIR accredited independent certified public accountant.

Q2: What are the obligations of cooperatives with duly issued CTEs?



A2: All registered cooperatives with duly issued CTEs shall:

- 
- 1. Communicate immediately any change in or amendment to its Articles of Cooperation or By-Laws to the RDO where the cooperative is registered for update of its registration details;**

Q2: What are the obligations of cooperatives with duly issued CTEs?

- ✓ Submit on a yearly basis to the appropriate RDO the following information or documents together with the filing of the cooperative's Annual Income Tax Return due on or before the 15th day of the fourth month following the close of the calendar year:
- ✓ a. Certified True Copy of the current and effective Certificate of Good Standing from CDA;

Q2: What are the obligations of cooperatives with duly issued CTEs?



- b. Original Copy of certificate under oath by the Chairperson/General Manager stating the following:
- (1) the type/category of cooperative and the principal activities/business transactions it is engaged in;
 - (2) that the cooperative is transacting business with members only or both members and non-members, whichever is applicable;
 - (3) the amount of the accumulated reserves as of the year end concerned;
 - (4) the amount of net surplus for the year; and
 - (5) that at least 25% of the net surplus is returned to the members in the form of interest on share capital and/or patronage refund;

Q2: What are the obligations of cooperatives with duly issued CTEs?

- ✓ c. Original Copy of yearly ✓ summary of records of transactions clearly showing which transactions correspond to members; or in case the cooperative deals with members and non-members, ✓ yearly summary of records of transactions clearly showing which transactions correspond to members and non-members; and

Q2: What are the obligations of cooperatives with duly issued CTEs?



- d. Original Copy of Certification under oath by the Chairperson/General Manager of the List of Active and Inactive Members, their respective TINs, and the Share Capital Contribution of each member as of the year end concerned.

Q3: Upon the filing of application for CTE, in case the TINs of the members cannot be supplied yet, will that result in the denial of the application?



A3: No. If the TINs of the cooperative members cannot be supplied because they are not yet available at the time of the application for CTE, the concerned Office shall nonetheless allow the processing and issuance/revalidation of CTEs of qualified cooperatives, provided, that in lieu thereof, the cooperative shall submit, an original copy of Certification under oath of the list of cooperative members, with their full name and capital contribution. Take note, however, that cooperatives which have been granted CTE are still required to complete and submit to the concerned Office the required TINs of their members within six (6) months from the issuance of the CTE.

Q3: Upon the filing of application for CTE, in case the TINs of the members cannot be supplied yet, will that result in the denial of the application?

A3: The non-submission by the cooperatives of the members' TIN requirement within six (6) months from the issuance of the CTE, without justifiable reason/s, shall be a ground for the revocation of the CTE pursuant to RMC No. 102-2016.



Q4: Is there a legal basis for the TIN requirement of the members of cooperative?



A4: Yes. Based on Section 236(I) of the NIRC of 1997, as amended, and Revenue Regulations (RR) No. 7-2012, any person required to make, render or file a return, statement or other document shall be supplied with or assigned a TIN for proper identification for tax purposes.


Q5: How will the Cooperative secure TIN for its active members?



A5: To assist its members in securing TIN, the Cooperative, with proper authorization from the members,  may apply for the issuance of TIN on behalf of its members by collating the duly accomplished BIR Forms 1904 of the members, together with a photocopy of any identification issued by any authorized government body (e.g., birth certificate, voter's ID, community tax certificate or *cedula*, passport, driver's license, senior citizen's ID, etc.) or any identification which shows the name, address and birthdate of the member. These shall be  submitted to the concerned RDO for the processing and issuance of the TIN.

Q5: How will the Cooperative secure TIN for its active members?



An option to  expedite the process is for the cooperative to apply for an electronic Registration (eREG) system access through the Office of the Assistant Commissioner, Client Support Service in the BIR National Office. This will enable the authorized cooperative to issue TIN to their members through the eREG system. The authorized official of the cooperative shall submit an Application for eREG Access together with a Certification under Oath of the List of Active and Inactive Members and their capital contributions.

Q6: Who are considered Inactive Members?



A6: The following are considered as inactive members, as defined by CDA:

1. Members who are declared not in good standing;
2. Members whose whereabouts are not known for the last continuous period of six (6) months;
3. Members who do not have transaction or not patronizing any business of the cooperative for the continuous period of at least six (6) months;
4. Members who are not participating in the activities of the cooperative held within the period of six (6) months.

The cooperative need not secure the TINs of inactive members.

Q7: How does the status of an inactive member revert into an active member?

A7: The status of an inactive member reverts into an active member as soon as he transacts business, patronizes and/or participates with the activities of the cooperative and his whereabouts are known. Accordingly, the cooperative shall apply for the TIN of such active member.

Q8: What is the prevailing rule on the exemption of interest earned from the savings and time deposit accounts of members of the cooperative engaged in lending?


A8: Interest income earned from the savings and time deposit accounts of members of cooperative engaged in lending are exempt from any taxes pursuant to Articles 60 and 61 of Republic Act (RA) No. 9520 which provides that *"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."*

Q9: What is the prevailing rule on the exemption from documentary stamp tax on transactions between cooperative and its members



A9: ✓ Transactions between cooperative and its members are not subject to documentary stamp tax (DST). Both the cooperative and its members are not liable to pay DST on these transactions. Articles 60 and 61 of Republic Act (RA) No. 9520 provides that, "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."

Q10: Are statutory contributions made by the Cooperatives as employer excluded from the gross income?

 **A10: Yes. Contributions made by a cooperative as the employer's share to GSIS, SSS, Medicare and Pag-ibig contributions are excluded from the gross income and claimed as an allowable deduction under Section 34 (A)(1) (a) of the NIRC, as amended.**

Q11: Is the cooperative exempt from the assessment of the 1% and 2% creditable withholding tax on isolated purchases of not more than P10,000 each from non-regular suppliers?



A11: Yes. The cooperative is exempt from the assessment of the 1% and 2% creditable withholding tax provided that it is not considered a Top Withholding Agent under Section 2.57.2(I) of RR No. 2-98 as amended by Section 2 of RR No. 11-2018 and RR No. 7-2019.

However, if the cooperative is considered as a Top Withholding Agent, all purchases made with its regular suppliers or any single purchase of more than P10,000.00 shall be subject to withholding tax.

Q11: Is the cooperative exempt from the assessment of the 1% and 2% creditable withholding tax on isolated purchases of not more than P10,000 each from non-regular suppliers?

The term "regular suppliers" refers to suppliers who are engaged in business or exercise of profession/calling with whom the taxpayer-buyer has transacted at least six (6) transactions regardless of the amount per transaction, either in the previous year or the current year.

AUDIT OF COOPERATIVES


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Q12: What are the criteria for a taxpayer/ cooperative to be selected for audit?

A12: A revenue  issuance on BIR's audit program is issued to prescribe policy guidelines for selection criteria of possible candidates for audit/investigation of tax returns, to enhance taxpayers' voluntary compliance by encouraging the correct payment of internal revenue taxes through the exercise of the enforcement function of the Bureau.


Q12: What are the criteria for a taxpayer/ cooperative to be selected for audit?

In the absence of an audit program, the Commissioner of Internal Revenue has the authority to examine and assess pursuant to Section 6 (A) of the NIRC under RA No. 8424 and Republic Act No. 10963 otherwise known as the "Tax Reform for Acceleration Inclusion" (TRAIN) Law.

"Section 6 (A) Examination of Returns and Determination of Tax Due — After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, notwithstanding any law requiring the prior authorization of any government agency or instrumentality. Provided, however, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer."

Q12: What are the criteria for a taxpayer/cooperative to be selected for audit?




Relative thereto, cooperatives which transact business with both members and non-members and whose accumulated reserves and undivided net savings  is more than Ten Million Pesos (Php10,000,000.00) shall be prioritized for audit/investigation by Revenue District Offices having jurisdiction over the said cooperatives.

Q12: What are the criteria for a taxpayer/cooperative to be selected for audit?



Further, other cooperatives with income not related to the main/principal business/es under their Articles of Cooperation shall likewise be among those covered for the priority audit, whether such cooperatives deal purely with members or both members and non-members.

Q13: What should a cooperative do in case it receives a Preliminary Assessment Notice (PAN), a Formal Letter of Demand/Final Assessment Notice (FLD/FAN), or a Final Decision on Disputed Assessment (FDDA) from the BIR?

 **A13: The cooperative's receipt of a PAN, a FLD/FAN or a FDDA, as the case may be, is not the finality of a tax assessment. Like an ordinary taxpayer, under Section 228 of the NIRC of 1997, as amended, and its implementing rules and regulations, the cooperative has the following remedies — if it believes it has factual and legal grounds — to question the tax assessment:**

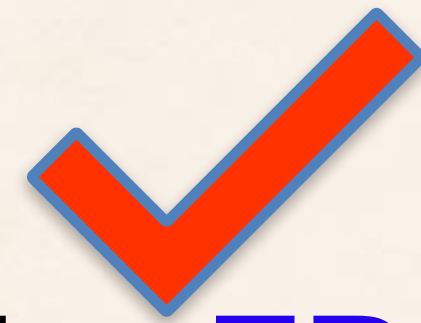
Q13: What should a cooperative do in case it receives a Preliminary Assessment Notice (PAN), a Formal Letter of Demand/Final Assessment Notice (FLD/FAN), or a Final Decision on Disputed Assessment (FDDA) from the BIR?

a) upon receipt of the PAN, it has a period of fifteen (15) days to respond to it; otherwise, it will be considered in default, in which case a FLD/FAN shall be issued;

Q13: What should a cooperative do in case it receives a Preliminary Assessment Notice (PAN), a Formal Letter of Demand/Final Assessment Notice (FLD/FAN), or a Final Decision on Disputed Assessment (FDDA) from the BIR?

b)upon receipt of the FLD/FAN, it has a period of thirty (30) days to protest it either by filing a motion for reconsideration or reinvestigation; otherwise, the assessment shall become final, executory and demandable.

Q13: What should a cooperative do in case it receives a Preliminary Assessment Notice (PAN), a Formal Letter of Demand/Final Assessment Notice (FLD/FAN), or a Final Decision on Disputed Assessment (FDDA) from the BIR?

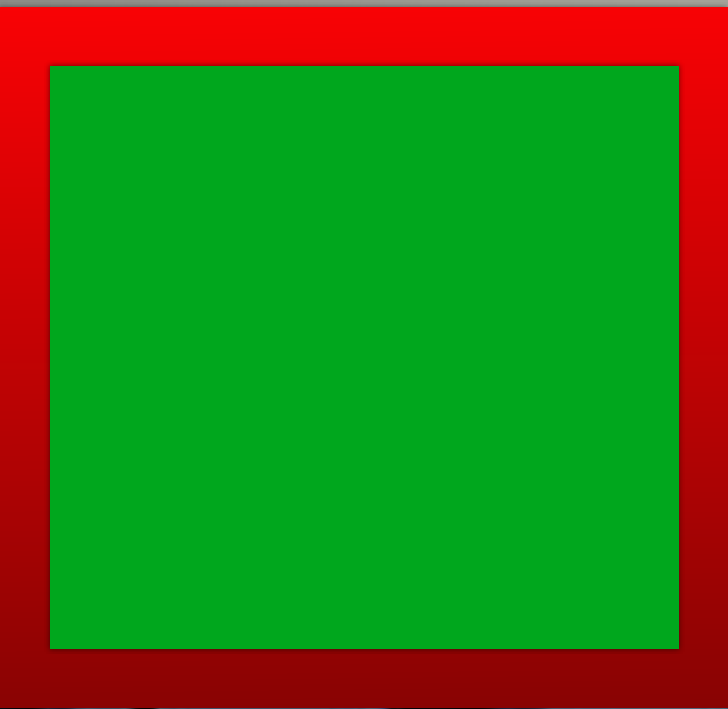


c) upon receipt of the FDDA, it has a period of thirty (30) days either to appeal to the Court of Tax Appeals or to protest it by filing a request for reconsideration to the Commissioner of Internal Revenue; otherwise, the assessment shall become final, executory and demandable.



Q13: What should a cooperative do in case it receives a Preliminary Assessment Notice (PAN), a Formal Letter of Demand/Final Assessment Notice (FLD/FAN), or a Final Decision on Disputed Assessment (FDDA) from the BIR?

d) upon receipt of the Decision of the Commissioner of Internal Revenue on its administrative protest, it has a period of thirty (30) days to appeal to the Court of Tax Appeals; otherwise, the assessment shall become final, executory and demandable.



OTHER ISSUES:

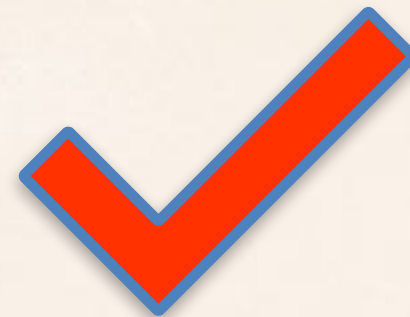
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Commissioner of Internal Revenue v. VMC Farmers Multi-Purpose Cooperatives, G.R. No. 225239, February 12, 2020



First, the seller must be an agricultural cooperative duly registered with the CDA. An agricultural cooperative is "duly registered" when it has been issued a certificate of registration by the CDA. This certificate is conclusive evidence of its registration.

Second, the cooperative must sell either:

1. exclusively to its members; or

2. to both members and non-members, its produce, whether in its original state or processed form.

Commissioner of Internal Revenue v. VMC Farmers Multi-Purpose Cooperatives, G.R. No. 225239, February 12, 2020



✓ The second requisite differentiates cooperatives according to its customers. If the cooperative transacts only with members, all its sales are VAT-exempt, regardless of what it sells. On the other hand, if it transacts with both members and non-members, the product sold must be the cooperative's own produce in order to be VAT-exempt. Stated differently, if the cooperative only sells its produce or goods that it manufactures on its own, its entire sales is VAT-exempt. ✓

Virac Employees Credit Cooperative

BIR Ruling No. 1391-18, November 19, 2018



The above-quoted provision specifically excepted member's deposits or fixed deposits and patronage refund generated from the operation of the cooperative from taxes, thus the dividends in the form of patronage refund received or to be received by members are not subject to the withholding tax, hence, entitled to the refund of amount of One Hundred Five Thousand Two Hundred Fifty Three pesos and 65/100 (P105,253.65) representing the 10% withholding tax from the individual member's dividend, if any, as computed under RR 2-98, as amended.

Naga Imaging Center Cooperative (NICC), BIR Ruling No. 1007-18, June 13, 2018



Art. 23. Type and Categories of Cooperatives. — Types of Cooperatives
— Cooperatives may fall under any of the following types: Xxx xxx xxx

(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;



(u) Other types of cooperatives as may be determined by the Cooperative Development Authority."

Naga Imaging Center Cooperative (NICC), BIR Ruling No. 1007-18, June 13, 2018



The above provision speaks of a service cooperative, which includes "other services." This indicates that the law is meant to be comprehensive enough to cover a multitude of services. Also, par. (u) of the same provision, talks about other types of cooperatives as may be determined by the CDA, connoting permissibility or allowing discretion on the part of the CDA to register such other types of cooperatives as it may deem proper.

Naga Imaging Center Cooperative (NICC), BIR Ruling No. 1007-18, June 13, 2018

 This Office hereby reverses the denial by RR No. 10-Legazpi City of the application of NICC for renewal of its CTE per its letter dated October 7, 2015, as reiterated in its letter dated December 21, 2015 and hereby holds that NICC is a health service cooperative which may be entitled to the tax exemptions and incentives provided by Articles 60 and 61 of Republic Act No. 9520, as implemented by Section 8 of the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of RA No. 9520, subject to existing rules and regulations implemented by the CDA and BIR.  Since NICC is transacting with members and both non-members, to be entitled to tax exemption — insofar as its transaction with non-members is concerned — it must have accumulated reserves and undivided net savings of not more than P10,000,000.

Dinagat Island Electric Cooperative, Inc.

BIR Ruling No. 779-19, December 9, 2019



Moreover, all Electric Cooperatives registered with the NEA, shall be subject to the following:

1. 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;

Dinagat Island Electric Cooperative, Inc.

BIR Ruling No. 779-19, December 9, 2019



2. ✓ 7.5% final income tax on interest income derived from a depository bank under the expanded foreign currency deposit system;

3. ✓ Capital Gains Tax on sales or exchanges of real property classified as capital assets or shares of stock;

Dinagat Island Electric Cooperative, Inc.

BIR Ruling No. 779-19, December 9, 2019



4. Documentary stamp taxes on transactions of cooperatives dealing with non-members, except transactions with banks and insurance companies, Provided that whenever one party to the taxable document enjoys the exemption from DST, the other party who is not exempt shall be the one directly liable for the tax;

5. VAT billed on purchases of goods and services; AND

Dinagat Island Electric Cooperative, Inc.

BIR Ruling No. 779-19, December 9, 2019



- ✓ **Value-Added Tax, on sales relative to the generation and distribution of electricity** as well as their importation of machineries and equipment, including spare parts, which shall be directly used in the generation and distribution of electricity; and
- ✓ **All other taxes** for which the ECs are not otherwise expressly exempted by any law.

Dinagat Island Electric Cooperative, Inc.

BIR Ruling No. 779-19, December 9, 2019



Upon the effectivity of R.A. 9337, the exemption from VAT of electric cooperatives was removed. Consequently, Revenue Regulations (RR) No. 16-2005, as amended by RR No. 4-2007, particularly Section 4.108-2 (13) and Section 4.108-3 (f) provide that sales of electricity by generation, transmission, and/or distribution companies are now subject to 12% VAT on their gross receipts. Provided, however, that sale of power or fuel generated through renewable sources of energy such as, but not limited to, biomass, solar, wind, hydropower, geothermal, ocean energy, and other emerging energy sources using technologies such as fuel cells and hydrogen fuels shall be subject to 0% VAT.

Mr. Orlando R. Ravanera, Chairman, CDA

BIR Ruling No. 205-19, March 6, 2019

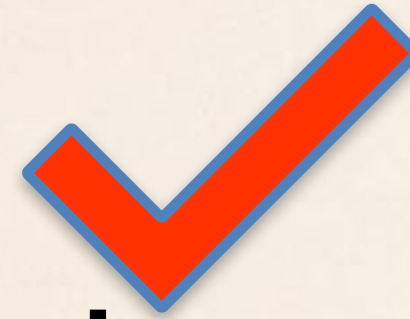


In reply, please be informed that although Republic Act (RA) No. 6938 provides that CDA shall be the government agency in-charge of registration and regulations of cooperatives, the CDA, its creation, powers, functions and responsibilities are guided by RA No. 6939. However, nowhere in RA No. 6939 (the "CDA Charter") is there a provision exempting CDA from payment of taxes.



Mr. Orlando R. Ravanera, Chairman, CDA

BIR Ruling No. 205-19, March 6, 2019



As represented, no redemption was made by the owners of the auctioned properties, hence, ownership over such real properties shall be transferred in the name of CDA.



IN VIEW OF THE FOREGOING, CDA is liable to pay the CGT/CWT/VAT and DST in order for the properties to be transferred in its name.

In case there is no bid price *i.e.*, want of bidder in the auction, or the highest bid is insufficient to satisfy CDA's claim, the claim of the CDA against the concerned cooperatives should be considered as the selling or bid price.



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BASIC WITHHOLDING TAX FORMS / CERTIFICATES



Particulars	Form	Deadline
✓ Monthly Remittance Return of Income Taxes Withheld on Compensation	1601-C ✓	✓ On or before the tenth (10th) day of the following month
✓ Monthly Remittance Form of Creditable Income Taxes Withheld (Expanded)	0619-E ✓	✓ On or before the tenth (10th) day of the following month
✓ Quarterly Remittance Return of Creditable Income Taxes Withheld (Expanded)	1601-EQ ✓	✓ Last day of the month following the close of the quarter
✓ Monthly Remittance Form of Final Income Taxes Withheld	0619-F ✓	✓ On or before the tenth (10th) day of the following month at which the withholding was made

BASIC WITHHOLDING TAX FORMS / CERTIFICATES



Particulars	Form	Deadline
✓ Quarterly Remittance Return of Final Income Taxes Withheld	1601-FQ	✓ Not later than the last day of the month following the close of the quarter
✓ Quarterly Remittance Return of Final Taxes Withheld on Interest Paid on Deposits and Yield on Deposit Substitutes/Trust/Etc.	1602Q	✓ Not later than the last day of the month following the close of the quarter
✓ Quarterly Remittance Return of Final Income Taxes Withheld on Fringe Benefits Paid to Employees Other Than Rank and File	1603Q	✓ Not later than the last day of the month following the close of the quarter

BASIC WITHHOLDING TAX FORMS / CERTIFICATES



Particulars	Form	Deadline
✓ Annual Information Return of Income Taxes Withheld on Compensation	1604-C ✓	On or before January 31 of the year following the calendar year in which the compensation payment and other income payments were paid or accrued.
✓ Annual Information Return of Income Payments Subjected to Final Withholding Taxes	1604-F ✓	On or before January 31 of the year following the calendar year in which the compensation payment and other income payments were paid or accrued.
✓ Annual Information Return of Creditable Income Taxes Withheld (Expanded) / Income Payments Exempt from Withholding Tax	1604-E ✓	On or before March 1 of the year following the calendar year in which the income payments subject to expanded withholding taxes or exempt from withholding tax were paid or accrued.

BASIC WITHHOLDING TAX FORMS / CERTIFICATES



Particulars	Form	Deadline
✓ Certificate of Income Payment Not Subject to Withholding Tax	2304	✓ On or before January 31 of the following year.
✓ Certificate of Final Tax Withheld at Source	2306	✓ To be issued to payee on or before January 31 or upon request of the payee
✓ Certificate of Creditable Tax Withheld At Source	2307	✓ On or before the 20th day of the month following the close of the taxable quarter or upon request of the payee
✓ Certificate of Compensation Payment/Tax Withheld	2316	✓ On or before January 31 of the succeeding year or on the same day the last payment of wages.

THANK YOU!

For questions or clarifications, you can contact us:

ATTY. ARNOLD A. APDUA, CPA

Email: services@aaacpas.com.ph

Contact No: 02-7586-8909





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