

**[BIR REVENUE MEMORANDUM ORDER NO. 76-
2010, September 27, 2010]**

**PRESCRIBING THE POLICIES AND GUIDELINES IN THE
ISSUANCE OF CERTIFICATE OF TAX EXEMPTION OF
COOPERATIVES AND THE MONITORING THEREOF**

SECTION 1. Background – Republic Act (RA) No. 9520, otherwise known as the “Philippine Cooperative Code of 2008”, was approved on February 17, 2009 and took effect on April 6, 2009. Pursuant to the provisions of Article 144 of the Cooperative Code, in relation to Sections 4 and 244 of the National Internal Revenue Code of 1997 (NIRC), as amended, the Department of Finance, Bureau of Internal Revenue (BIR) and the Cooperative Development Authority (CDA) issued the Joint Rules and Regulations Implementing Articles 60, 61 and 144 of the Cooperative Code on February 5, 2010 which became effective on June 16, 2010.

RA No. 9520 extends the same preferential tax treatment to cooperatives granted under RA No. 6938 and reiterates most of the provisions of the old Cooperative Code on tax incentives and exemptions. The major difference, however, is that under Article 61 of the new law, transactions of members with cooperatives are now expressly exempt from any imposition of taxes and fees thereby making the legislative intent for taxation to give way to the demands of social justice more apparent.

Consistent with the foregoing policy of the State, it is incumbent upon the BIR to ensure that the tax exemptions and incentives extended to cooperatives are administered effectively. Towards this end, the BIR shall adopt uniform and simplified procedures in the processing and confirmation of cooperative tax exemptions.

SECTION 2. Objectives - This Order is hereby issued to achieve the following objectives:

1. To prescribe simplified procedures in the availment of tax exemptions and incentives provided for under Articles 60, 61 and 144 of RA No. 9520;
2. To sustain an efficient and effective administration of tax exemptions under RA No. 9520; and
3. To increase coordination between Revenue Regions and National Office for purposes of monitoring the revenue impact of the exemptions granted to cooperatives.

SECTION 3. Policy - It is a declared policy to integrate and streamline the requirements for confirming tax exemptions under RA No. 9520. In order to expedite the processing and confirmation of tax exemption, applications shall be acted upon by the Revenue District Offices and Revenue Regions having jurisdiction

over the principal place of business of the cooperatives instead of the National Office.

SECTION 4. General Guidelines:

1. All cooperatives previously registered with and confirmed by CDA under RA 6938 and RA 6939 are deemed registered under the new Cooperative Code (RA 9520) and a new certificate of registration shall be issued by CDA. It is only after a cooperative has secured a new certificate of registration that it becomes eligible to apply for a Certificate of Tax Exemption with the BIR.
2. All cooperatives registered with the CDA under RA 9520 are mandated to update their registration information with the BIR.
3. A cooperative applying for tax exemption shall be required, as a condition for the issuance of Certificate of Tax Exemption, to update its BIR Registration with the Revenue District Office (RDO) having jurisdiction over the cooperative's principal place of business.
4. The cooperative's application for Registration Update may be processed simultaneously with the cooperative's application for tax exemption.
5. The Updated Certificate of Registration shall be issued and released to the cooperative together with the Certificate of Tax Exemption. The concerned RDO shall endeavor to release the Certificate of Tax Exemption within ten (10) working days from submission of complete documents by the cooperative.
6. Applications for Certificate of Tax Exemptions and its subsequent renewals shall comply with documentary requirements prescribed in the succeeding section. The RDO shall refuse to accept the cooperative's application when it is not properly supported by the documents required herein.

SECTION 5. Documentary Requirements:

A. For the Original Issuance of Certificate of Tax Exemption

A cooperative shall submit a duly accomplished Application for Certificate of Tax Exemption for Cooperatives (BIR Form No. 1945), attached herein as Annex "A"* , together with the following documents, to the concerned RDO:

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; and
4. Certified True Copy of the BIR Certificate of Registration of the Cooperative.

In addition to the above requirements, the cooperative shall also submit the following documents:

1. Original Copy of Certification under Oath of the List of Cooperative Members with their respective Taxpayer Identification Number (TIN) and their capital contributions prepared by authorized official of the Cooperative.

For the initial submission of this list of cooperative members, those without TIN may temporarily use NSO number or other government-issued ID number or Community Tax Certificate Number.

Subsequently, however, the cooperative should require all their members to secure a TIN with the BIR for the updated list of members to be submitted together with the regular filing of the cooperative's annual income tax return.

B. For the Renewal of Certification of Tax Exemption

For the renewal of Certificate of Tax Exemption, a cooperative shall likewise submit a duly accomplished Application for Certificate of Tax Exemption for Cooperatives (BIR Form No. 1945), attaching herein as Annex "A"* , together with the following documents, to the concerned RDO:

1. Certified True Copy of the Certificate of Registration issued by the CDA under the new Cooperative Code;
2. Certified True Copy of the Latest Articles of Cooperation and the Latest By-laws of the Cooperative;
3. Certified True Copy of the current Certificate of Good Standing from CDA effective on the date of application. No application for exemption will be processed in the absence thereof or submission of an expired Certificate of Good Standing; and
4. Certified True Copy of Latest financial statements of the immediately preceding year duly audited by a BIR accredited independent certified public accountant.

SECTION 6. Processing of Request for Issuance of Certificate of Tax Exemption

A. APPLICATION AND PRE-EVALUATION BY THE REVENUE DISTRICT OFFICE

1. Update of BIR Registration profile:

The cooperatives are required to surrender their Old BIR Certificate of Registration and submit an Application of Update of BIR Registration with the Revenue District Officer (RDO) where they are originally registered.

2. Application for Cooperative's Certificate of Tax Exemption:

The cooperative must submit also to the RDO where they are registered a duly accomplished BIR Form No. 1945 with all requisite documents.

3. Pre-evaluation at the RDO:

The RDO, or his designated Revenue Officer of the Day must pre-evaluate the cooperative's submission using Pre-evaluation Sheet of Revenue Officer, herein attached as Annex "B"*.

4. Endorsement to the Regional Director:

If the cooperative's submissions are in order and in compliance with this RMO, the Revenue Officer of the Day shall prepare a Memo Endorsement Form, herein attached as Annexes "C"*/"C-1"*, to the Regional Director recommending issuance of Certificate of Tax Exemption. The entire docket, with the necessary pre-evaluation sheet and endorsement letter report, shall be transmitted within five (5) working days from the filing of the duly-accomplished BIR Form No. 1945 accompanied by the required documentary requirements to the Office of the Regional Director, through The Chief, Legal Division.

B. REVIEW AND APPROVAL OF CERTIFICATES BY THE REGIONAL DIRECTOR

1. Review by the Legal Division:

The Chief, Legal Division shall review and evaluate the RDO's report, and if in order, prepare the appropriate Certificate of Tax Exemption (For Cooperatives registered under Republic Act No. 9520), following the applicable format herein as Annex "D" or Annex "E" or Annex "F"*.

2. Preparation and Approval of Certificate of Tax Exemption:

The Certificate of Tax Exemption shall be forwarded to the Regional Director for his signature. Only applications for tax exemption which comply with the documentary requirements prescribed herein shall be approved by the Regional Director.

C. NUMBERING AND RELEASING OF CERTIFICATES

1. Immediately after the Certificate of Tax Exemption (For Cooperatives Registered under Republic Act No. 9520) has been approved and signed by the Regional Director, the same shall be transmitted back to the Legal Division for numbering.

2. The certification number shall be indicated in the space provided for in the upper right portion of the Certificate and shall adopt the following numbering code:

Example:

The 1st Certificate of Tax Exemption (For Cooperatives Registered Under Republic Act No. 9520) to be issued by Revenue Region No. 1 -Calasiao, Pangasinan for a cooperative registered with RDO No. 001 Laoag, Ilocos Norte shall bear the following certification number:

"COOP No. 00001-10- RR-01-RDO 001"

Where:

"00001" indicates that this is the first Certificate of Tax Exemption issued for the period;

"10" represents the calendar year 2010;

"RR-01" stands for Revenue Region No. 1 (or the concerned revenue region) and

"RDO 001" refers to RDO 01 (or the RDO Number where the cooperative is registered taxpayer)

Certificates of Tax Exemption (For Cooperatives Registered under Republic Act No. 9520) shall be numbered sequentially as they are issued.

3. The signed and numbered Certificate of Tax Exemption shall be transmitted back to the RDO, to be released to the cooperative by the RDO together with the updated Certificate of Registration, whenever applicable.

SECTION 7. Tax Exemptions and Incentives of Cooperative Under RA No. 9520 -

For the guidance and information of all concerned, Revenue Memorandum Circular (RMC) No. 012-10 dated February 11, 2010 was issued to circularize the Joint Rules and Regulations (JRR) implementing Articles 60, 61 and 144 of RA No. 9520.

However, as quick reference to this RMO, the tax exemptions and incentives provided under Articles 60 and 61 or RA No. 9520, as implemented by Section 7, 8, 9 and 10 of the JRR are quoted herein as follows:

"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 initiatives and reinvestment to socio-economic projects within the area of operation of the cooperatives;
- e. Excise Tax under Title VI of the NIRC, as amended, for which it is directly liable;
- f. 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;
- 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
- i. Electric cooperatives duly registered with the Authority shall be exempt from VAT on revenue shall be exempt from VAT on