



PHILIPPINE COOPERATIVE CENTER



November 11, 2021

Report on the Dialogue with BIR Regarding tax issues not covered by RMC 124-2020 and implementation of RMC 124-2020 vis-a-vis RA 9520.

Last October 29, 2021, the United Movement of the Philippines for the advancement of Cooperativism¹ or UCMP, where the conveners are the Philippine Cooperative Center, National Cooperative Development Council, Liga ng mga Cooperative Development Officers of the Philippines, and the COOP NATCCO Party-List thru Congressman Ben Canama, held another round of dialogues with cooperatives attended by 300 leaders from Luzon Visayas and Mindanao, regarding tax issues that are not in consonance with RA 9520, in spite of the issuance of the Bureau of Internal Revenue RMC # 124-2020.

From the round table discussion, we were able to consolidate additional issues where the Bureau can guide and assist not only the cooperatives with issues but within the Bureau itself particularly at the Regional District Office.

The UCMP also reminded the cooperatives that it is the mandate of BIR to inspect and implement the Laws on Taxation and that any differences in the application of RA 9520 Art 60, 61 can be addressed through continuing dialogue and eventually resolutions of the case without going through the tedious process of hearings of cases. BIR issued RSO 183-2020 creating the BIR Regional TWG and RSO 112-2020 creating the BIR National TWG to address the concerns of the Office of the House of Representatives -Cooperative Sector and to monitor their compliance with the Tax Code provisions and relevant rules and regulations relative to the grant of tax exemptions. The consultations covered Cooperatives from NCR, Luzon, Visayas, and Mindanao.

Last Nov. 8, 2021, the United Movement of the Philippines, together with its fellow cooperators, and the Bureau of Internal Revenue discussed the key issues culled from the previous consultations and discussions. The highlights of the dialogue were prepared and documented by the Philippine Cooperative Center. Key points raised and the reply of BIR are documented below.

¹ Conveners of UCMP- Philippine Cooperative Center, National Cooperative Development Council, Liga ng mga Cooperative Development Officers of the Philippines, and the COOP NATCCO Party-List



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ISSUES NOT RELATED TO RMC 124-2020		
ISSUES	BIR REPLY	RECOMMENDATIONS/REMARKS
<p>(1) Concerns on Transport Service Cooperatives</p> <p>(2) Concerns on Cooperative Schools</p> <p>(3) School/Workplace Canteen run by Cooperatives</p>	<p><i>BIR focused on the issue of transactions with members and non-members.</i></p> <p><i>BIR advised that cooperatives should always keep two separate books for transactions. One for transactions with members and another one for transactions with non-members. This enables them to easily determine which transactions are tax exempt.</i></p> <p><i>BIR highlights the differences between VAT on Sales of Cooperatives and VAT Purchases.</i></p> <p><i>For VAT on Sales of Cooperatives, BIR goes back to the distinction mentioned by Art. 60 and 61 of the RA 9520.</i></p>	
<p>Retirement Fund being taxed by BIR, even if the fund is yet to be given to employees due to retire</p>	<p><i>BIR clarifies that the retirement policy should be registered (reasonable retirement fund) under them, for it to be tax</i></p>	<p><i>Retirement Funds, while not disbursed, should not be taxed by BIR.</i></p> <p>Copy of the Guidelines on non</p>



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	<i>exempt.</i>	taxability of the Retirement Policy will be provided by BIR to UCMP through the office of Cong Ben of CNPL
ISSUES RELATED TO RMC 124-2020		
Investments: Cooperative to Cooperative	<i>Regarding the issue of cooperative-to-cooperative investments, BIR advised the coops that they will release a memo for clarification regarding the tax exemptions on investments. BIR will be consulting CDA regarding the specific points. BIR's stand, however, is that as long as the coops involved engage in the same activities – these are exempted. If not, BIR will seek clarification from CDA.</i>	This should be exempted considering that the resources used by cooperatives (i.e. Primary) for investing are sourced from their members. This also considers the fact that cooperatives to which the money/resources were invested are also covered by Art 61.
BIR's delay on reply, processing, and assessment of requirements submitted by Cooperatives, especially those co-ops applying for CTE or CTE renewal.	<i>BIR mentions the newly released RSO 431-2021. This is a new set of guidelines on the ease of doing business, where issues and concerns of cooperatives can be directed to the RDOs.</i> <i>TIN is not a requirement in the application for CTEs, thus, if all requirements are met/completed, the</i>	A copy of the RSO 431-2021 will be provided to UCMP through CNPL under Cong Ben Canama's office.



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	<p><i>CTE must be released.</i></p> <p><i>Through this, BIR officers are not allowed to accept incomplete CTE application/renewal requirements.</i></p> <p><i>BIR also informed the coops that BIR offices/officers are required to reply within the next 10 days regarding the status of the application.</i></p> <p><i>BIR advised cooperatives with ongoing applications (application started before the release of the RSO) should inquire about their applications.</i></p>	
<p>Issues on the application of CTE (when there are assessment issues).</p>	<p><i>According to BIR, cooperatives having pending assessment cases (under protest by the cooperative/s) should not be a ground or cause of delay in the release of the CTE.</i></p> <p><i>The general presumption, according to BIR, is that the documents for the</i></p>	



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	<p>application are deemed complete.</p> <p><i>BIR advised, however, that protest should be conducted on time, so that the case will not mature to a final assessment case. If the account becomes delinquent, BIR officers immediately collect the penalty. To avoid that instance, BIR advises everyone to protest on time.</i></p>	
<p>Clarification on the need for TIN on the issuance of CTE. Some RDOs are not processing the application because of the TIN requirement. As per RMC 124-2020. This is not allowed. The CTE should be processed and released since there is still a 6-month period allowance to process the members' TIN.</p>	<p><i>BIR agrees with this. However, they emphasized the importance of immediately procuring TIN within the 6 month-period allotted under the RMC. This is because the TIN is BIR's primary basis and tool to check cooperative members and non-members.</i></p> <p><i>In case procurement of TIN extends beyond the 6 month-period, BIR allows further extension – under justifiable reasons.</i></p>	



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	<p><i>While BIR has a working list of justifiable reasons, they requested the assistance of the coops and the CDA to propose a list of possible “justifiable reason” (ex. Provided by BIR: Force Majeure, National Emergency, circumstances analogous in nature, and etc.)</i></p>	
OTHER MATTERS		
<p>The amendment of JAO 1-2019 update.</p>	<p><i>According to BIR, they did submit a draft of the amended JAO 1-2019 to DOF. DOF however had additional comments. They requested to include certain provisions of the new CREATE Law.</i></p> <p><i>Thus, a new JAO will be crafted incorporating the TRAIN LAW, and CREATE LAW provisions – together with the previous proposed amendments.</i></p> <p><i>In terms of penalties, BIR assures the cooperatives, that the old JAO1-2019 penalty provisions will be followed, except on first offense, to which a</i></p>	



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	<i>warning and (appropriate fines) would suffice.</i>	
<p>NCDC is a multi-sectoral body created by law and where CDA initiated the formation of the Cooperative Development Council at the National, Provincial, and City levels. What will be the treatment of BIR especially if there are donations for cooperative activities and they don't have receipts. If they will be provided with BIR receipts, how will they be treated by BIR?</p>	<p><i>They will be treated in the same manner as how they will be registered with BIR – that is, as an association.</i></p> <p><i>It is necessary to be registered first as an association under the BIR in order to be provided with receipts.</i></p> <p><i>BIR advised CDCs to use their certificates of recognition from CDA to facilitate their registration as to either council or association.</i></p>	
<p>Religious conduct of dialogue as enunciated by RSO 183-2020 and ensuring that examiners and other BIR Personnel are well aware of the RA 9520 tax treatments for cooperatives.</p>	<p><i>BIR mentions that they will be releasing a new memorandum reiterating the Tax Exemptions of Cooperatives so that their regional offices will be properly informed of the exemptions.</i></p>	
ISSUES MENTIONED IN THE Q AND A to which the BIR responded:		
<p>CTE Releasing</p>	<p>CTE release will be expedited as long as the requirements are completed.</p>	



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<p>Remedy in cases of assessment notice</p>	<p>In case of a notice of assessment, BIR advised coops to immediately file a protest.</p>	
<p>Withholding Tax on Cooperative investments on Govt. Securities</p>	<p>BIR will follow up with CDA regarding the withholding tax issues on the cooperative investments on govt. securities.</p>	
<p>Doc stamps on loan transactions with Private banks</p>	<p>Doc stamps on Private Bank Loans are covered by tax exemption.</p>	
<p>BIR assistance on TIN Procurement</p>	<p>For assistance on procuring a TIN, BIR may assist cooperatives through the Asst. Commissioner on Client Support Services. This office or officer can assist especially on electronic access.</p>	
<p>Eligibility of Electric Cooperatives on Tax Exemptions</p>	<p>Electric Cooperatives under CDA are covered by the tax exemptions provided for the cooperatives. For Electric Cooperatives not registered with CDA, they will not be covered by Tax exemptions Under RA</p>	



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	<p>9520 Art 60 and 61.</p> <p>BIR will release a RMC that will reiterate the exemptions of ECs registered under CDA</p>	
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