REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Republic Act No. 8367
Revenue Regulations No. 9-2004; and Revenue Memorandum Circular No. 9-2016
BIR Ruling No. 466-2014
OT-065-2023

JUN 06 2023

AIR MATERIEL WING
SAVINGS AND LOAN ASSOCIATION, INC.
AMWSLAI Building, Corner Boni Serrano
& 18th Avenue, Murphy, Cubao, Quezon City

Thru: Col Thaddeus P. Estalilla PAF (Ret)
Chairman and President

Gentlemen:

This refers to your request on behalf of ***Air Materiel Wing Savings and Loan Association, Inc.*** ("AMWSLAI") for exemption from imposition of gross receipts tax (GRT) under Revenue Memorandum Circular (RMC) No. 09-2016 being a non-stock savings and loan association (NSSLA) organized and operated exclusively for the mutual benefit of its members.

It is represented that **AMWSLAI** is a corporation duly organized under the laws of the Philippines; that it is registered with the Securities and Exchange Commission (SEC) under Company Registration No. ; and that a Certificate of Authority No. was issued by the Bangko Sentral ng Pilipinas (BSP) in favor of **AMWSLAI** authorizing the latter to operate as a NSSLA under Republic Act (RA) No. 3779, as amended by RA No. 8367. Based on its Articles of Incorporation, AMWSLAI is organized for the primary purposes of encouraging the habit of thrift and savings among its members; to accept/receive capital contributions, time and savings deposits from its members, as well as pay dividends or interests, as the case may be, on said contributions and deposits; and to grant such kinds of loans to the members as the Board of Trustees may allow subject to limitations and restrictions under the law and regulations, and to impose such interests and other charges on said loans as the Board of Trustees may prescribe.

In reply, please be informed that Section 3 of Republic Act (RA) No. 8367 otherwise known as *"An Act Providing for the Regulation of the Organization and Operation of Non-Stock Savings and Loan Associations"* defines non-stock savings and loan associations (NSSLAs) as "a non-stock, non-profit corporation engaged in the business of accumulating the savings of its members and using such accumulations for loans to members to service the needs of households by providing long term financing for home building and development and for personal finance." The said law also provides tax exemption to NSSLAs as provided under Section 5, to wit:

> *"SECTION 5. TAX EXEMPTION. — An Association shall be exempt from payment of tax in respect to income it receives, including interest on its deposits with any bank: Provided, however, that income derived from any of its properties, real or personal, or any activity conducted for profit, regardless of the disposition thereof, is subject to the corresponding internal revenue taxes imposed under the National Internal Revenue Code. Interest earnings on deposits of members with Associations as well as the shares of its members from the net income of the Associations shall be exempt from income tax."*

Accordingly, RMC No. 9-2016 was issued to clarify the taxability of NSSLAs for purposes of income tax, gross receipts tax and documentary stamp tax. The said RMC provides that NSSLAs are under the direct supervision and regulation of the Bangko Sentral ng Pilipinas (BSP) and, for regulatory purposes, they are classified as Non-Bank Financial Intermediaries (NBFIs) under the BSP Manual of Regulations. Hence, NSSLA is generally subject to GRT on income derived from its operations, unless otherwise exempted under existing laws and/or regulations.

Relative thereto, Revenue Regulations (RR) No. 9-2004 entitled "Implementing Certain Provisions of Republic Act No. 9238, Re-Imposing the Gross Receipts Tax (GRT) on Banks and Non-Bank Financial Intermediaries Performing Quasi-Banking Functions and Other Non-Bank Financial Intermediaries Beginning January 1, 2004" defines NBFIs as follows:

> *"2.3. Non-bank Financial Intermediaries — shall refer to persons or entities whose principal functions include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them or otherwise coursed through them, either for their own account or for the account of others. This includes* ***all entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public*** *through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates of assignment or similar instruments with recourse, trust certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally." (Emphasis Ours)*

Clearly, RR No. 9-2004 imposes GRT on NBFIs engaged in the lending of funds or purchasing of receivables or obligations with funds obtained from the public. RMC No. 9-2016 further clarified that NBFIs are generally subject to GRT on income derived from its operation, unless otherwise exempted under special rules. Thus, AMWSLAI must be organized and operated exclusively for the mutual benefit of its members. RA No. 8367 requires that all funds received from members are accumulated to be utilized for the common benefit of the members by providing long term financing for home building and development and for personal finance. Moreover, it expressly exempts NSSLAs from payment of tax in respect to income they receive, including interest on their deposits with any bank.

Based on the foregoing, NSSLAs are subject to GRT if they are engaged in the business of being a NBFI as defined under RR No. 9-2004, that is, if the NSSLAs are obtaining funds from the public. However, it may be exempted from GRT if they can prove that they do not engage in activities as NBFI as defined under RR No. 9-2004.

Perforce, this Office denies the requested exemption from GRT of AMWSLAI based only on the representation that its members are all non-stock savings and loan association organized pursuant to RA No. 8367.

Please bear in mind that, "being a non-stock savings and loan association does not, by this reason alone, completely exempt an institution from tax." Thus, "statutes granting tax exemptions are construed strictissimi juris against the taxpayer and liberally in favor of the taxing authority. A claim of tax exemption must be clearly shown and based on language in law too plain to be mistaken. Otherwise stated, taxation is the rule, exemption is the exception. The burden of proof rests upon the party claiming the exemption to prove that it is in fact covered by the exemption so claimed." (BIR Ruling No. 466-2014 dated November 19, 2014)

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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