**June 13, 2018**

# BIR RULING NO. 1002-18

RA 9520; 000-00

*Central Mindanao Construction Multi-Purpose Cooperative*
2nd F Ragonton Building, Quezon Boulevard
Kidapawan City

Attention: *AAA*

Gentlemen :

This refers to your letter dated October 28, 2011, requesting for clarification on the 12% VAT deducted by the Commission of Audit.

Documents submitted disclosed that Central Mindanao Construction Multi-Purpose Cooperative (CMCMPC) with Tax Identification Number 000-000-000-000 is a primary multi-purpose cooperative duly organized under the laws of the Philippines; that it is registered with the Cooperative Development Authority (CDA) under Registration No. 9520-12000454 dated October 12, 2009; and that the purposes for which it was formed are to engage in the following:

1) Housing development project;

2) Construction and office supplies, distributor of heavy equipments, equipment rentals, spare parts, gasoline station & lubricants, furnitures and fixtures, and buy and sell agricultural products and medical supplies;

3) Horizontal & vertical constructions, ports, harbors and airports;

4) Engineering plans, specification and designs supervision, in accordance with Republic Act 455 and to all existing government rules and regulations;

5) Supplies of bituminous materials, pre-concrete mix and aggregates;

6) Micro-financing.

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and that on May 11, 2010, CMCMPC obtained a certificate of tax exemption (CTE) (DA No. 017-2010) from Revenue Region (RR) No. 18-Koronadal City as a cooperative entitled to the following tax exemptions and incentives provided by Article 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:

1. Exemption from Income tax on income from CDA-registered operations;

2. Exemption from Value-Added Tax on CDA-registered sales or transactions;

3. Exemption from other Percentage tax;

4. Exemption from Donor's tax on donations to duly accredited charitable, research and educational institutions, and reinvestment to socio-economic projects within the area of operation of the cooperative;

5. Exemption from Excise tax for which it is directly liable;

6. Exemption from Documentary stamp tax: *Provided, however*, that the other party to the taxable document/transaction who is not exempt shall be the one directly liable for the tax;

7. Exemption from payment of Annual Registration fee of Five hundred pesos (P500.00);

8. Exemption from 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 depositary bank under the expanded foreign currency deposit system; and

Moreover, based on your experience in Kidapawan and other provinces in Visayas and Mindanao, where your cooperative is operating and engaging in construction works, you are outrightly deducted with 12% Value Added Tax (VAT) imposed by the Commission on Audit (COA) and implemented by the Bids and Awards Committee (BAC) under RA 9184 of various government agencies and entities.

Hence, this request.

In reply, please be informed that pursuant to Article 60 of Republic Act (RA) No. 9520, pertinent portions of which state that:

*ART. 60. Tax Treatment of Cooperative. — Duly registered cooperatives*

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*under this Code which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws. x x x*

xxx xxx xxx

In addition, the Joint Rules and Regulations implementing RA No. 9520, particularly Section 7 as circularized by Revenue Memorandum Circular No. 12-10 dated February 5, 2010, provides:

***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:*

xxx xxx xxx

*b) Value-Added Tax (VAT) imposed under Title IV of the NIRC, as amended;*

xxx xxx xxx

Based on the foregoing, only cooperatives that deal or transact business with its members are covered by the exemption from VAT, thus the transaction of CMCMPC with the government agencies is considered as a transaction with non-members, hence subject to appropriate taxes and, consequently, to VAT.

Very truly yours,

**(SGD.) CAESAR R. DULAY**
*Commissioner of Internal Revenue*

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