November 15, 2018

BIR RULING NO. 1341-18

RA No. 9520; Sec. 105 of the Tax Code, as amended; BIR Ruling No. 032-10; BIR Ruling No. 353-11

Regional Agricultural and Fishery Council
Department of Agriculture
DA-RFU III, Capitol Compound, City of San Fernando, Pampanga

Attention: *Jesus M. Sison*
Chairman

Gentlemen :

This refers to the letter dated July 11, 2012 of National Agricultural and Fishery Council duly indorsed by the Department of Finance, on the request of Regional Agricultural and Fishery Council Region III (RAFC III) for exemption from value-added tax (VAT) on the purchases of fuel of farmers and fisherman.

It is represented that RAFC III established Central Luzon Federation of Agricultural Cooperatives whose members are farmers in Region III; that on April 26, 2012, Revenue Region 4-City of San Fernando, Pampanga issued a Certificate of Tax Exemption pursuant to R.A. 9520 to Central Luzon Federation of Agricultural Cooperatives with Tax Identification Number 000-000-000-000 as a cooperative transacting with members only; and that it desires to apply for exemption for Value-Added Tax (VAT) on the fuel purchase of farmers and fisherfolks.

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

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

In addition, the Joint Rules and Regulations implementing Republic Act No. 9520, particularly Sections 7 and 10 as circularized by Revenue Memorandum Circular No.

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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:*
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> *b) Value-Added Tax (VAT) imposed under Title IV of the NIRC, as amended;*
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> *SECTION 10. Taxability of Cooperatives to Other Internal Revenue Taxes. — All cooperatives, regardless of classification shall be subject to:*
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> xxx xxx xxx
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> *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;*
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> xxx xxx xxx

Accordingly, even if Central Luzon Federation of Agricultural Cooperatives enjoys exemption from direct taxes, *e.g.*, income tax, still it cannot claim exemption from the 12% VAT on its purchases of goods/services. This is so, because VAT is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of goods, properties or services. (Section 105, Tax Code of 1997). Thus, purchases of fuel by Central Luzon Federation of Agricultural Cooperatives is subject to 12% VAT. (BIR Ruling No. 032-10 dated August 25, 2010 and BIR Ruling No. 353-11 dated September 26, 2011)

Further, we regret to inform you that your request for exemption from VAT on the purchases of fuel of farmers and fisherfolks cannot be granted for lack of legal basis. Exemptions from taxation are highly disfavored in law; and he who claims an exemption must be able to justify his claim by the clearest grant of organic or statute law.

Please be guided accordingly.

Very truly yours,

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

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