November 10, 2016

BIR RULING NO. 384-16

Section 5, RA No. 8367; RMC No. 9-2016; BIR Ruling No. 046-15; BIR Ruling No. 460-14; BIR Ruling No. 233-14

Lepanto Savings and Loan Association, Inc.
Lepanto, Mankayan, Benguet

Attention: *AAA*

Gentlemen :

This refers to your letter dated April 7, 2014, relative to your request from this Office for Tax Exemption on behalf of **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** pursuant to **Republic Act (RA) No. 8367**, otherwise known as the **"Revised Non-Stock Savings and Loan Association Act of 1997."**

It is represented that **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** with business address at Lepanto, Mankayan, Benguet, is a corporation duly registered and existing under the laws of the Republic of the Philippines with the Securities and Exchange Commission under SEC Company Registration No. 34890 dated March 28, 1968; that it is duly registered with the Bureau of Internal Revenue (BIR) with Taxpayers Identification No. (TIN) 000-000-000-000 and Certificate of Registration No. OCN4RC0000575339 dated March 26, 1999; that it was granted Certificate of Authority No. C0028 by the Central Bank of the Philippines on May 3, 1968 to operate as a savings and loan association; and that the primary purposes for which it was incorporated are as follows:

1. To engage in the operations of a non-stock savings and loan association;

2. To encourage industry, frugality, and accumulation of savings among the members;

3. To extend loans to members and/or make investments in the securities of the productive enterprises or in securities of the Government or any of its

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political subdivisions, instrumentalities or corporations;

4. And generally to exercise and execute all the powers, prerogatives and privileges inherent in and granted to corporations and to such savings and loan associations, primarily for the benefit and interest of its members.

In reply, please be informed as follows:

Income Tax

Section 5 of RA No. 8367 provides that:

> *"**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."*

Based on the foregoing, **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** shall be exempt from income tax with respect to income it receives. Also, interest income derived by it from its deposit and deposit substitutes are exempt from twenty percent (20%) final withholding tax. ***(BIR Ruling No. 046-15 dated February 11, 2015 and BIR Ruling No. 460-14 dated November 13, 2014)***

However, any income derived by **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** from any of its properties, real or personal, or any activity conducted for profit, regardless of the disposition thereof, is subject to the applicable income tax and other internal revenue taxes imposed under National Internal Revenue Code of 1997, as amended. It is subject to the applicable income tax depending on the classification of its properties either capital or ordinary asset.

Gross Receipts Tax

Section 4 of Revenue Regulations (RR) No. 9-2004, as amended, implementing **Section 122 of the National Internal Revenue Code of 1997, as amended**, provides for the imposition of Gross Receipts Tax (GRT) on Non-bank Financial Intermediaries. Section 4 of RR No. 9-2004 states that:

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*"**SECTION 4. Imposition of Gross Receipts Tax on Other Non-bank Financial Intermediaries.** — Gross receipts of other non-bank financial intermediaries (non-bank financial intermediary not performing quasi-banking functions) doing business in the Philippines shall be subject to GRT at rates and on items of income provided hereunder:*

(a) From interest, commissions, discounts and all other items treated as gross income under the Code — 5%

(b) On interests, commissions and discounts from lending activities as well as income from financial leasing, on the basis of remaining maturities of the instruments from which such receipts are derived:

Maturity period is five (5) years or less — 5%

Maturity period is more than five (5) years — 1%

xxx xxx xxx"

Thus, **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** is generally subject to GRT on income derived from its operations, unless otherwise exempted under special rules.

Documentary Stamp Tax

As provided under Section 5 of RA 8367, a non-stock savings and loan association is only exempt from income tax. Thus, **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.**, as a non-bank financial intermediary, is subject to Documentary Stamp Tax (DST) under the provisions of RR No. 13-2004 implementing Title VII of the National Internal Revenue Code of 1997, as amended, particularly on loan agreements, mortgages, pledges, foreclosures and sales, among others.

Moreover, pursuant to RR No. 9-2000, whenever **LEPANTO SAVINGS AND LOAN ASSOCIATION, INC.** is one of the parties to a taxable transaction, it shall be responsible for the remittance of the DST due regardless of who will bear the burden of paying the DST.

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,

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

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