March 14, 2018

BIR RULING NO. 517-18

RA 9520; 000-00

Department of Agrarian Reform
2F City Coliseum, Brgy. San Pedro,
Puerto Princesa City

Attention: *Conrado S. Guevarra*
Provincial Agrarian Reform Officer

Gentlemen :

This refers to your letter requesting that the application of cooperatives for tax exemption be extended until December 2015.

It is represented that one of the major thrusts of your Office is to provide technical assistance to Agrarian Reform Beneficiaries Organizations (ARBOs) where majority of these organizations are cooperatives which are either newly organized or rehabilitated. Aside from the small business ventures to support the essential needs of their members, these cooperatives also serve as channel of government support from different agencies. The support extended to them includes the provision of capability trainings, financial assistance and provision of common service facilities which are best collectively owned rather than distributed individually.

It is further represented that in the past years, despite diligent efforts from your Office in reminding them to apply for Certificate of Tax Exemption from the BIR, only five (5) out of thirty six (36) cooperatives being assisted by DAR in the province of Palawan have applied and issued with Certificate of Exemption, leaving thirty one (31) cooperatives which are facing penalty or in danger of being dissolved.

In view of this, you are appealing in behalf of the cooperatives to ask for reconsideration and more leniencies with regard to the Tax Exemptions regulations. Specifically, the current policy on percentage tax of 3%, surcharges and penalties of 4% from the gross earnings proved to be inapplicable for cooperatives which operate on the basis of service and not for profit. Some of these cooperatives even with gross earnings still incurred losses after the year-end determination of their financial condition. If these cooperatives will be strictly penalized, it would cripple the smallest unit of agricultural sector.

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Please be informed that Section 13 of Joint Rules and Regulations implementing Articles 60, 61 and 144 of the Republic Act 9520, otherwise known as the Philippine Cooperative Code of 2008 in relation to RA No. 8424 or the National Internal Revenue Code, as amended, provides that:

> *Section 13. DOCUMENTS TO BE ATTACHED TO THE LETTER —* APPLICATION FOR THE ISSUANCE OF A CERTIFICATE OF TAX EXEMPTION/RULING.
>
> xxx xxx xxx
>
> *The application for exemption by a qualified cooperative is a pre-requisite for availment of tax exemption by said cooperative. The Certificate of Tax Exemption/Ruling shall be issued only after determination by the BIR that the cooperative has complied with all the necessary documentary requirements for entitlement under RA 9520.*
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> xxx xxx xxx
>
> ***All duly registered cooperatives under RA 9520 shall apply for a Certificate of Tax Exemption/Ruling within sixty (60) days counted from the date of issuance of certificate of registration***.
>
> *Exemption from taxes herein stated shall apply to the duly-registered cooperatives on the year the certificate of tax exemption/ruling was issued. However, for the initial issuance of the Certificate of Tax Exemption/Ruling under RA 9520, the effectivity of such Certificate of Tax Exemption/Ruling issued shall commence from the year RA 9520 took effect: Provided, That the cooperative has registered with the CDA as provided for under Article 144 of RA 9520.*
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> *For applications for tax exemption not filed within the prescribed period, the late applicants shall be subjected to internal revenue taxes prior to the issuance of the Certificate of Tax Exemption/Ruling however they can apply for tax credit/refund of taxes previously paid from the date of registration with the CDA up to the issuance of the Certificate of Tax Exemption/Ruling, subject to the rules and procedures for processing tax credit/refund. The BIR shall act on the request for tax refund of taxes previously paid within one hundred twenty (120) days from submission of the complete documents in support of the application filed. (emphasis supplied)*

Accordingly, the foregoing provision clearly provides that cooperatives must apply for a Certificate of Tax Exemption/Ruling within sixty (60) days counted from the date of issuance of certificate of registration.

Thus, Cooperatives without Certificate of Tax Exemption are subject to internal revenue taxes, however, cooperatives may apply for tax credit/refund of taxes previously paid from the date of registration with the CDA up to the issuance of the Certificate of Tax Exemption/Ruling, subject to the rules and procedures for processing tax

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credit/refund.

Accordingly there being no provision allowing for extension for filing of Application for Tax Exemption, the herein request is denied for lack of legal basis.

Very truly yours,

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

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