

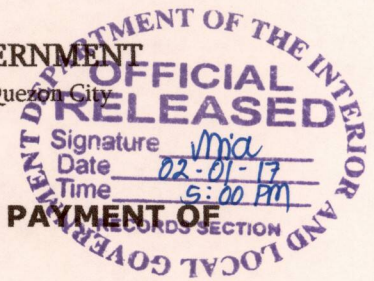


Republic of the Philippines

DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

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EXEMPTION OF DULY REGISTERED COOPERATIVES FROM PAYMENT OF APPLICABLE TAXES, FEES AND CHARGES

Memorandum Circular No. 2017 - 16

February 01, 2017

1.0 Background

Under Article 2 of the "Philippine Cooperative Code of 2008", it is the policy of the State to foster the creation and growth of cooperative as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice.

2.0 Purpose

The purpose of this policy is to emphasize the exemption of duly registered cooperatives from payment of applicable taxes, fees and charges.

3.0 Legal Compliance

This Circular is based on the following laws:

- 3.1. Republic Act No. 9520, *Philippine Cooperative Code of 2008*;
- 3.2. Republic Act No. 7160, *Local Government Code of 1991*;
- 3.3. Memorandum Circular No. 2010-120 dated October 20, 2010

4.0 Scope/Coverage

All Provincial Governors, City and Municipal Mayors, Punong Barangays, DILG Regional Directors, ARMM Regional Governor, and all others concerned

5.0 Policy Content and Guidelines

5.1 Under the Philippine Cooperative Code of 2008

The Bureau of Local Government Finance Memorandum Circular No. 31-2009 as reiterated in DILG MC No. 2010-120, clearly laid down the exemptions from local taxes and fees of cooperatives based on the following Articles of the Philippine Cooperative Code of 2008, to wit:

Art. 60. Tax Treatment of Cooperative. - Duly registered cooperatives under this Code which do not transact any business with non-members or the article shall be governed by the succeeding section.

ART.61. Tax and Other Exemptions. Cooperatives transacting business with both members and non-members shall not be subjected to tax on their transactions with members. In relation to this, the transactions of members with the cooperative shall not be subject to any taxes and

fees, including not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions:

"(1) Cooperatives with accumulated reserves and undivided net savings of not more than Ten million pesos (P10,000,000.00) shall be exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature. Such cooperatives shall be exempt from customs duties, advance sales or compensating taxes on their importation of machineries, equipment and spare parts used by them and which are not available locally a certified by the department of trade and industry (DTI). All tax free importations shall not be sold nor the beneficial ownership thereof be transferred to any person until after five (5) years, otherwise, the cooperative and the transferee or assignee shall be solidarily liable to pay twice the amount of the imposed tax and / or duties.

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"(3) All cooperatives, regardless of the amount of accumulated reserves and undivided net savings shall be exempt from payment of **local taxes** and taxes on transactions with banks and insurance companies: Provided, That all sales or services rendered for non-members shall be subject to the applicable percentage taxes sales made by producers, marketing or service cooperatives: Provided further, That nothing in this article shall preclude the examination of the books of accounts or other accounting records of the cooperative by duly authorized internal revenue officers for internal revenue tax purposes only, after previous authorization by the Authority.

The direct/indirect circumvention of Article 60 and 61 of RA 9520 by public officials/employees is punishable by fine or imprisonment, or both as provided under Section 140 thereof:

Article 140. Penal Provisions-The following acts or omissions affecting cooperatives are hereby prohibited:

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The Authority may motu proprio, initiate complaints for violations of this provisions.

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"(3) Direct or indirect violation or circumvention of the provisions of Articles 60 and 61 of this Code committee by any public official or employee of any bureau, office or agency of the government that deprives, diminishes or in any manner hinders or restricts any duly registered cooperative from the full enjoyment of the exemption from the payment of the taxes, fees and charges enumerated therein, shall upon conviction, suffer a penalty of not less that one (1) year but not more than five (5) years imprisonment or a fine in the amount of not less than Five thousand pesos (P5,000.00) or both

at the discretion of the court and shall further be disqualified to hold any other office;

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"In case of violation of any provision of this Code, the individual or individuals, and in the case of organizations or government agencies, its officers, and directors shall, upon conviction by a Court, each suffer a penalty of not less than two (2) years but not more than five (5) years imprisonment or a fine in the amount of not less than Twenty thousand pesos (P20,000.00), or both at the discretion of the court. In the case of a public official or employee, the offender shall upon conviction, suffer the accessory penalty of temporary absolute disqualification.

5.2 Under the Local Government Code of 1991

The intent to exempt CDA-registered cooperatives from local taxes, fees, and charges is reiterated under Section 133 (n) of the Code, which enumerates the common limitations on the taxing powers of local government units, to wit:

Section 133. Common Limitations on the Taxing Powers of Local Government Units. - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

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(n) **Taxes**, fees, or charges, on Countryside and Barangay Business Enterprises and cooperatives duly registered under R.A. No. 6810 and Republic Act Numbered Sixty-nine hundred thirty-eight (R.A. No. 6938) otherwise known as the "Cooperative Code of the Philippines" respectively

5.3 Under DILG MC No. 2010-120

The DILG MC No. 2010-120 emphasized the exemption of duly registered cooperatives from payment of applicable taxes, fees and charges subject to compliance with BLGF MC No. 31-2009, which requires cooperatives transacting with both members and non-members to perform the following:

1. Obtain or secure a Mayor's permit and pay the commensurate cost of regulation, inspection and surveillance of the operation of its business but not exceeding One Thousand Pesos (PhP 1,000.00);
2. Secure a Community Tax Certificate, as juridical entity and pay the basic tax of Five Hundred Pesos (PhP 500.00); and
3. Pay service charges or rentals for the use of property and equipment or public utilities owned by the local government such as charges for actual water consumption, electric power, toll fees for the use of public roads and bridges, and the like.

6.0 Penal Provisions

Non-compliance with the above-cited provisions of laws, rules and regulations shall be dealt with in accordance with pertinent laws, rules and regulations.

7.0 References

- 7.1. Republic Act No. 9520, *Philippine Cooperative Code of 2008*;
- 7.2. Republic Act No. 7160, *Local Government Code of 1991*;
- 7.3. Memorandum Circular No. 2010-120 dated October 20, 2010
- 7.4. DILG Legal Opinion No. 36 S. 2015

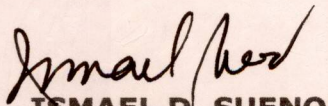
8.0 Repealing Clause

All DILG Memorandum Circulars inconsistent herewith, in part or in full, are hereby modified, revoked, or repealed accordingly.

9.0 Effectivity

This Memorandum Circular shall take effect immediately.

10.0 Approving Authority


ISMAEL D. SUENO
Secretary



11.0 Feedback

For related queries, kindly contact the Policy Compliance Monitoring Division of the Bureau of Local Government Supervision at Tel. Nos. (02) 928 9181 or (02) 925 0351 or at email address at pfrt.blgs@gmail.com.

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