



NORTHERN LUZON FEDERATION OF COOPERATIVES AND DEVELOPMENT CENTER (NORLU CEDEC)

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NORLU CEDEC POSITION PAPER ON UPHOLDING/RETENSION OF THE TAX EXEMPTION OF COOPERATIVES

THE FACTS

The organization of cooperatives in the Philippines started as early as the time of Dr. Jose Rizal in 1896 while he was in exile in Dapitan. He had organized the Agricultural Marketing Cooperative in Dapitan.

From 1906 up to 1940, the National Government organized various types of cooperatives – rural Credit Cooperatives, Agricultural Cooperatives and Marketing Cooperatives.

From 1950 to 1969, the expansion of cooperativism in the Philippines continued with the passage of various laws.

The government's active involvement in the cooperative movement continued into the early 1940's.

So, in 1940, Commonwealth Act No. 585 known as the Cooperative Act was passed. It provided:

1. For the organization of all types of cooperatives;
2. Authorized the National Trading Corporation (NTC) to promote and supervise cooperatives;
3. Established the national Cooperative Fund (NCF);
4. Gave permission for the organization of a cooperative of not less than 15 members; and
5. Granted cooperatives exemption from government taxes and fees for the first 5 years of their operation.

In the 1960'S, the Catholic Church, which has a membership of more than 85% of the Filipino people, proclaimed an interest in the cooperative movement as a matter of Church Teaching. The Philippine Church was responding to the call of the Second Vatican Council for direct participation in the solution of the problems in the poverty and social in justice. Thus, in 1967, the Church sponsored a National Rural Congress which passed resolution officially recognizing the need to organize cooperative in the parishes. This became a major plank in the program of action of the diocesan social action centers. The cooperatives organized under this programmed those organized by the private sector with the help of church leaders laid great stress on education as a



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tool for economic liberation and on voluntarism and self-reliance as the motivating force for leadership and membership in cooperatives.

By 1963, there were approximately 750 non-agricultural cooperatives registered with Cooperative Administration Office with membership of more than 200,000. Of these cooperatives, credit unions and consumers cooperatives were the predominant types. Under the provision of the same law, the Philippines National Cooperative Bank (PNCB) was established to provide credit to non-agricultural cooperatives. After 10 years of operation, however, it was closed due to insolvency resulting from mismanagement.

The Church efforts resulted in the organization of thousands cooperatives. Primary cooperatives of various types linked up with one another to form secondary level organizations called federations and these were in turn integrated into the tertiary level organizations, the national cooperative networks.

In 1969, the Code of Agrarian Reform (Republic Act No. 6389) was passed. The code mandated that cooperatives be utilized as the primary conduits for credit, supply and marketing services to agrarian reform beneficiaries.

Then, President Marcos issued P.D. No. 1 which recognized the executive branch of the government. The decree abolished the Cooperative Authority Office (CAO) and organized the Bureau of Cooperative Development (BCOD) under the Department of Local Government and Community Development (DLGCD). A month later, P.D. 27, the Agrarian Reform Decree, declared the entire country as agrarian reform area.

On October 21, 1972, Presidential Decree No. 175 otherwise titled "Strengthening the Cooperative Movement" was promulgated by President Ferdinand E. Marcos. The letter of implementation was issued on April 14, 1973.

On March 10, 1990, Republic Act No. 6938 was passed into law which provided that all real property owned by duly registered cooperatives shall be tax exempt from real property taxes.

In 1991, Republic Act No. 7160 otherwise known as the Local Government Code of 1991 came into law and took effect on January 1, 1992. Section 234 of R.A. No. 7160 provided that:

“(d) All real property owned by duly registered cooperatives as provided for under R.A. 6938.”



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On February 17, 2009, R.A. 9520 became a law upon its approval and it provided two (2) articles for the exemption of duly registered cooperatives from taxes and fees imposed under the revenue laws and other taxes and also exempt from all national, city, provincial, municipal or barangay taxes of whatever name and nature.

Article 60. Tax Treatment of Cooperatives. 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. Cooperatives not falling under this article shall be governed by the succeeding section.

Article 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 but 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 non-members 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.
- 2) Cooperatives with accumulated reserves and divided net savings of more than Ten million pesos (P10,000,000.00) shall be fee from the following taxes at the full rate:
 - a) **Income Tax** - On the amount allocated for interest on capitals: Provided, That the same tax is not consequently imposed on interest individually received by members: Provided, further, That cooperatives regardless of classification, are exempt income tax from the date of registration with the Authority;
 - b) **Value-Added Tax On transactions with non-members:** Provided, however, That cooperatives duly registered with the Authority; are exempt from the payment of value-added tax; subject to Sec. 109, sub-sections L, M and N of Republic Act No. 9337, the National Internal Revenue Code, as amended: Provided, That the exempt transaction under Sec. 109 (L) shall include sales made by



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cooperatives duly registered with the Authority organized and operated by its member to undertake the production and processing of raw materials or of goods produced by its members into finished or process products for sale by the cooperative to its members and non-members: Provided, further, That any processed product or its derivative arising from the raw materials produced by its members, sold in the name and for the account of the cooperative: Provided , finally, That at least twenty-five per centum (25%) of the net income of the cooperatives is returned to the members in the form of interest and/or patronage refunds;

- c) All other taxes unless otherwise provided herein; and
 - d) Donations to charitable, research and educational institutions and reinvestment to socioeconomic projects within the area of operation of the cooperative may be tax deductible.
- 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.
 - 4) In areas where there are no available notaries public, the judge, exercising his ex officio capacity as notary public, shall render service, free of charge, to any person or group of persons requiring the administration of oath or the acknowledgment of articles of cooperation and instruments of loan from cooperatives not exceeding Five Hundred Thousand Pesos (P500,000.00).
 - 5) Any register of deeds shall accept for registration, free of charge, any instrument relative to a loan made under this Code which does not exceed Two Hundred Fifty Thousand Pesos (P250,000.00) or the deeds of title of any property acquired by the cooperative or any paper or document drawn in connection with any action brought by the cooperative or with any court judgment rendered in its favor or any instrument relative to a bond of any accountable officer of a cooperative for the faithful performance of his duties and obligations.
 - 6) Cooperatives shall be exempt from the payment of all court and sheriff's fees payable to the Philippine Government for and in connection with all actions brought under this Code,



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or where such actions is brought by the Authority before the court, to enforce the payment of obligations contracted in favor of the cooperative.

- 7) All cooperatives shall be exempt from putting up a bond for bringing an appeal against the decision of an inferior court or for seeking to set aside any third party claim: Provided, That a certification of the Authority showing that the net assets of the cooperative are in excess of the amount of the bond required by the court in similar cases shall be accepted by the court as a sufficient bond.
- 8) Any security issued by cooperatives shall be exempt from the provisions of the Securities Act provided such security shall not be speculative.

Article 62. Privileges of Cooperatives. Cooperatives registered under this Code, notwithstanding the provisions of any law to the contrary, be also accorded the following privileges:

- 1) Cooperatives shall enjoy the privilege of depositing their sealed cash boxes or containers, documents or any valuable papers in the safes of the municipal or city treasurers and other government offices free of charge, and the custodian of such articles shall issue a receipt acknowledging the articles received duly witnessed by another person;
- 2) Cooperatives organized among government employees, notwithstanding any law or regulation to the contrary, shall enjoy the free use of any available space in their agency, whether owned or rented by the Government;
- 3) Cooperatives rendering special types of services and facilities such as cold storage, ice plant, electricity, transportation, and similar services and facilities shall secure a franchise therefore, and such cooperatives shall open their membership to all persons qualified in their areas of operation;
- 4) In areas where appropriate cooperatives exist, the preferential right to supply government institutions and agencies rice, corn and other grains, fish and other marine products, meat, eggs, milk, vegetables, tobacco and other agricultural commodities produced by their members shall be granted to the cooperatives concerned;
- 5) Preferential treatment in the allocation of fertilizers, including seeds and other agricultural inputs and implements, and in rice distribution shall be granted to cooperatives by the appropriate government agencies;



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- 6) Preferential and equitable treatment in the allocation or control of bottomries of commercial shipping vessels in connection with the shipment of goods and products of cooperatives;
- 7) Cooperatives and their federations, such as farm and fishery producers and suppliers, market vendors and such other cooperatives, which have for their primary purpose the production and/or the marketing of products from agriculture, fisheries and small entrepreneurial industries and federations thereof, shall have preferential rights in the management of public markets and/or lease of public market facilities, stalls or spaces: Provided, That these rights shall only be utilized exclusively by cooperatives: Provided, further, That no cooperative forming a joint venture, partnership or any other similar arrangement with a non-cooperative entity can utilize these rights;
- 8) Cooperatives engaged in credit services and/or federations shall be entitled to loans credit lines, rediscounting of their loan notes, and other eligible papers with the Development Bank of the Philippines, the Land Bank of the Philippines and other financial institutions except the Bangko Sentral ng Pilipinas (BSP);

The Philippine Deposit Insurance Corporation (PDIC) and other government agencies, government-owned and controlled corporations and government financial institutions shall provide technical assistance to registered national federations and unions of cooperatives which have significant engagement in savings and credit operations in order for these federations and unions to establish and/or strengthen their own autonomous cooperative deposit insurance systems;

- 9) A public transport service cooperative may be entitled to financing support for the acquisition and/or maintenance of land and sea transport equipment, facilities and parts through the program of the government financial institutions. It shall have the preferential right to the management and operation of public terminals and ports whether land or sea transport where the cooperative operates and on securing a franchise for active or potential routes for the public transport;
- 10) Cooperatives transacting business with the Government of the Philippines or any of its political subdivisions or any of its agencies or instrumentalities, including government-owned and controlled corporations shall be exempt from prequalification bidding requirements notwithstanding the provisions of Republic Act No.9184, otherwise known as, the Government Procurement Act;



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- 11) Cooperative shall enjoy the privilege of being represented by the provincial or city fiscal or the Office of the Solicitor General, free of charge, except when the adverse party is the Republic of the Philippines;
- 12) Cooperatives organized by faculty members and employees of educational institutions shall have the preferential right in the management of the canteen and other services related to the operation of the educational institution where they are employed: Provided, That such services are operated within the premises of the said educational institution;
- 13) The appropriate housing agencies and government financial institutions shall create a special window for financing housing projects undertaken by cooperatives, with interest rates and terms equal to, or better than those given for socialized housing projects. This financing shall be in the form of blanket loans or long-term wholesale loans to qualified cooperatives, without need for individual processing.

The Authority, in consultation with the appropriate government agencies and concerned cooperative sector, shall issue rules and regulations on all matters concerning housing cooperatives.

- 14) Corazon C. Aquino, was catapulted to power as the new president. With the recreation of democratic space, cooperative leaders seized the opportunity to push again for a meaningful legislation – a law that would define government’s role as a regulator of cooperatives to prevent abuse and as a provider of incentives to enhance their growth. The cooperative leaders saw the chance to redirect the government’s cooperative involvement away from direct organizing and managing to one of support for and promotion of cooperatives.
- 15) Hence, in 1988, cooperative leaders all over the country lobbied aggressively for the adoption of cooperative-friendly legislation. In this effort, they got all out support from co-author (Aquilino Q. Pimentel Jr.) who was, then, serving as Senator. He authored and co-sponsored the bill that sought to enact a Cooperative Code. Sen. Aquino in his capacity as chair of the Committee on Agriculture was the main sponsor.

THE ISSUES



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1. **SHOULD THE TAX EXEMPTION OF COOPERATIVES BE UPHeld/RETAINED FOR ITS MEMBERS?**
2. **IS TAX EXEMPTION A NATIONAL OR INTERNATIONAL CONCERN?**
3. **IS THE LEGALITY OF THE TAX EXEMPTION OF COOPERATIVES ESTABLISHED?**

ARGUMENTS

I. DISCUSSION OF THE FIRST ISSUE

The cooperatives are vessels of equity, and their existence is deeply rooted in community development as they are organized primarily to serve members' needs, focusing on the provision of members' benefits rather than profits or monetary returns to investors. This member-driven orientation makes them different from corporations and other organizations whose existence and success are measured in terms of monetary gains and, therefore service is but secondary.

For more than a hundred years now, cooperatives have performed a significant role in the country's development, particularly in **poverty reduction, job generation, and social integration**. They **promote** self-reliance. They **create rural employment**. They **encourage entrepreneurial undertakings**. They **enhance the livelihood** of farmers, fisherfolk, rural workers, and urban poor. They **provide** for the needs of members through marketing support, extension of credit and loan facilities, provision of new technology, even adult education, and scholarships for children.

In a country where millions of Filipinos are going out of the country to find jobs leaving their families behind, the employment contributions of the cooperatives is just amazing as the 18,700 cooperatives nationwide have directly employed some 580,000 individuals and have generated indirect employment of more than 2.3 million.

Cooperatives continue to reach more people, particularly those in the vulnerable sectors to have them in the attainment of their economic and social goals. There are now some 26 types of cooperatives including farmers combatants, PWDs and drug victims. Due attention has been given to the coops of the IPs and ecological people who are among the poorest of the poor and are vulnerable to be recruits of violent extremism. To help the government in its fight against insurgency, cooperatives have been mobilized to be active partners of government in ELCAC.



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Today, Dumaguete Cathedral Credit Cooperative (DCCCO) has trailblazed an agreement with CDA to be active in ELCAC.

Undeniably, cooperatives are engines of economic growth, creating products and services that have produced benefits to millions of Filipinos. Treating cooperatives as profit oriented enterprises and imposing taxes on them is not only unconstitutional, it is also anti-people as it is counter-productive in the long run. The viability and sustainability of cooperatives that have long been serving millions of members are now put in a serious bind. The social and economic benefits provided by cooperatives have far reaching impact and they need support from the government to reach their potential as a dynamic people-centered enterprise committed to total human development. Yes, cooperatives put primacy on developing the human capital of this country.

Indeed, a strong army can conquer a kingdom but the strongest army in the world cannot overcome an idea whose time has come. Cooperativism is that idea! Its DNA is one that promotes prosperity for all as it is members-owned, value-based and principle-driven. It has to protect so it remains sustainable and viable.

Today, millions of Filipinos have embraced **cooperativism** as a way of life. Cooperatives have allowed the less privileged members of society to meet their goals and aspirations, convert what would have remained as unaddressed weaknesses into opportunities, transforming the **“bottom of the social pyramid”** into productive members and catalysts for the much needed economic and social change. Cooperatives harness and develop the saving capacity of the have less members of society, making them contributors in the country’s continued drive for capital formation. And all of these have occurred because the weaker and poorer members of society believe and trust in the cooperative system.

Make no mistake about it. The world has acknowledged the role of cooperatives. Their gargantuan task consists of improving the lives of marginalized members of society, their uniqueness and distinctiveness seen and manifested in their very mandate of achieving the economic, social and cultural needs and aspirations of their members. Cooperatives are special aggrupations of people because they are saddled with a social task and a calling to unite people, harness their productive capacity, and let them rise past poverty level. Cooperativism is the liberating force against poverty, inequities and social justice in a country where only 200 families control 73% of the economy. Indeed, cooperatives are the great equalizer!

2. DISCUSSION OF THE SECOND ISSUE

The answer is a resounding YES!

All of us are acutely aware that the world is changing profoundly. Everywhere – inequality, decline in social justice, ecological turbulence due to climate change and violent extremism – these are extraordinary phenomena which are disturbingly becoming ordinary. The only countervailing



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force is cooperativism, according to the United Nations which crafted its 17 Sustainable Development Goals with the theme, “**Transformative Cooperatives for People, Planet, Prosperity and Peace**”. The only way to correct the dysfunctions of the contemporaneous development paradigm is through cooperativism. This truism is reinforced by a research study done recently by the Overseas Cooperative Development Council of the USAID headed by Dr. Judith Hermanson who reported that based on three-month Asean research-study, it is the conclusion that where there are cooperatives, it is where the quality of life is better and that the Philippines is the cooperative leader in Asia and the Pacific.

Thus, Articles 60 and 61 of Republic Act No. 9520, the Philippine Cooperative Code of 2008 which provide tax exemptions to cooperatives in all its transactions with members, **need to be upheld** as these twin provisions of the law are there in recognition of the fact that cooperatives develop the human capital of this country, build communities, and consequently, are active partners of the government in nation-building. Hence, we demand the following:

1. Duly registered cooperatives should NOT be required for a Tax Identification Number (TIN) because by law they are already tax exempt. **Article 60, R.A. 9520 (Cooperative Code of 2008). 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.

The general rule when dealing with cooperatives is that they are exempted from tax. In a case it decided, the Supreme Court opined that “if there is an express mention or if the taxpayer falls within the purview of the exemption by clear legislative intent, the rule on strict construction does not apply (Comm. Vs. Amoldus Carpentry Shop, Inc., 159 SCRA 19)”. **The tax exemption privilege under the Code was made to enable the cooperatives develop into viable and socio-economic enterprises and thereby fulfill its purpose of serving the need of the members.**

2. **NO NEED for Certificate of Tax Exemption (CTE).** The Certificate of Registration, Certificate of Compliance and Certificate of Good Standing issued by the CDA to a duly registered cooperative are all enough proof for the cooperatives that they are propagating social enterprise and they shall be exempted from tax.

Indeed, cooperatives are vehicles of social justice, drawing those in marginalized sectors into the mainstream of development process. It is in consonance to what has been mandated in Chapter 15 Article 12 of the 1987 Constitution, “to promote the viability and growth of cooperatives as instruments of social justice, equity and economic development.”



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3. **Exempt the cooperatives from payment of real property tax.** Section 234, R.A. No. 7160 (Local Government Code of 1991). Exemptions from Real Property Tax. The following are exempted from payment of the real property tax:

(d) All real property owned by duly registered cooperatives as provided for under R.A. No. 6938.

4. **Uphold and respect the above mentioned laws.** They were passed and continue to have force and effect because the intention of the framers of these laws is to give life into the cooperative sector, and not destroy it. No regulations, memoranda or issuances from any government office can, and should defeat, these laws.

5. **Recognize and support eh efforts of cooperatives all over the country.** The cooperatives have done projects in collaboration with certain government agencies, particularly in bringing about laudable community projects. It is therefore fair and just that they be recognized and supported.

We will continue to advocate the above issues without let up until those who continue attempting to tax the cooperatives will listen!

We humbly request the honorable lawmakers to please consider our appeal that:

1. Duly registered cooperatives should NOT be required for a Tax identification Number (TIN);
2. NO NEED for Certificate of Tax Exemption (CTE);
3. Exempt cooperatives from payment of real property tax;
4. Uphold and respect the above mentioned laws and court decisions; and
5. Recognize and support the effort of cooperatives all over the country.

With these, we believed that we can uplift the dignity of the poor and the oppressed.

3. DISCUSSION OF THE THIRD ISSUE

The countless benefits of cooperatives to its members and to the society in general are enormous.

The benefits are derived from the programs, projects and social activities conducted and sponsored by cooperatives. Due to these programs, projects and activities which redounded to the upliftment of the lives of their members, the tax exemption granted by the various laws had been sustained by the Supreme Court in the landmark case of Dumaguete Cathedral Credit Cooperative (DCCCO)



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vs. Commissioner of Internal Revenue penned by Justice Del Castillo. In said case, the High Court affirmed the tax exemption of the cooperatives, declaring in unequivocal terms that:

“the power to tax is a strong fundamental power of the state but such power must bow down to the principle of social justice.”

This ruling of the Supreme Court has reverberated throughout the country and it was met by rejoicings of all the cooperatives nationwide.

Indeed, **COOPERATIVES ARE VEHICLES OF SOCIAL JUSTICE** as most of its members come from the marginalized sectors and the cooperatives bring these sectors into the mainstream of development processes.

This matter on social justice, equity, and economic development was provided in Chapter XV, Article XII of the Philippine Constitution.

To strengthen the cooperatives as the vehicle of social justice, R.A. 11364 was passed which aimed to protect the cooperative sector and by passing said law, the strengthening of the Cooperative Development Authority (CDA) was deemed necessary for cooperatives to truly function as instruments of social justice.

NORLU CEDEC firmly believes that the Philippines is a bastion of freedom where justice rolls on like a river and righteousness like a never ending stream. Hence, NORLU CEDEC supports the move to UPHOLD and RETAIN the tax exemption of cooperatives.

CONCLUSION

The UPHOLDING and RETENTION of the tax exemptions of cooperatives is extremely necessary for the survival of cooperatives. Upholding and retaining such exemptions is vital to the upliftment of the lives of the marginalized sector of society who are mostly farmers, fisherfolk, rural workers, urban poor and lowly office workers.

Hence, the upholding and retention of Articles 60 and 61 of R.A. 9520 MUST BE RESPECTED.

OUR BATTLE CRY: UPHOLD AND RETAIN THE TAX EXEMPTION OF COOPERATIVES!



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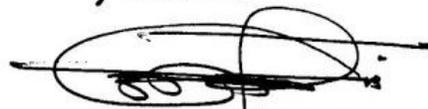
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