



REPUBLIC OF THE PHILIPPINES
Department of Finance
Department of Trade and Industry



JOINT ADMINISTRATIVE ORDER NO. 001.2023

GUIDELINES TO IMPLEMENT SECTIONS 305, 306, 307, AND 308 OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED BY REPUBLIC ACT (RA) NO. 11534, OTHERWISE KNOWN AS THE CORPORATE RECOVERY AND TAX INCENTIVES FOR ENTERPRISES (CREATE) ACT FOR COOPERATIVES

Pursuant to Section 21 of RA No. 11534, or the CREATE Act, after due consultations with the Bureau of Internal Revenue (BIR) and the Cooperative Development Authority (CDA), the Secretary of Finance and the Secretary of Trade and Industry do hereby jointly promulgate the following guidelines ("Guidelines") to implement Sections 305, 306, 307, and 308 of the NIRC of 1997, as amended, for cooperatives registered with the CDA.

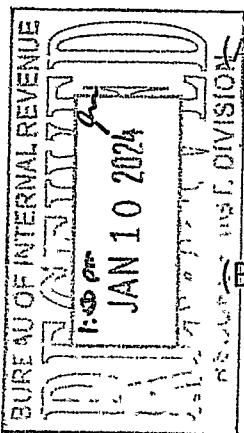
Rule I. General Provisions

Section 1. Scope and Coverage: These Guidelines shall apply to:

- a. The CDA with respect to the submission of reports under the CREATE Act; and
- b. All cooperatives registered with the CDA.

The relevant provisions of the CREATE Act Implementing Rules and Regulations (IRR), as amended, shall have a suppletory effect on the provisions of these Guidelines.

Section 2. Definition of Terms. For purposes of the Guidelines, the following terms shall mean:



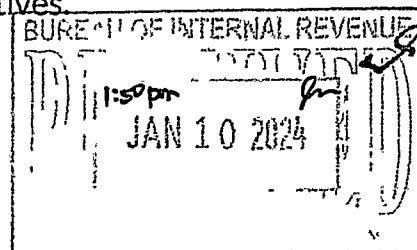
(A) "Code" refers to RA No. 8424, otherwise known as the "National Internal Revenue Code of 1997" or "NIRC of 1997" as amended by RA No. 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" or "CREATE Act";

(B) "Annual Benefits Report (ABR)" refers to the detailed report submitted by registered cooperatives to the CDA that will present a clear,

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complete and data-driven account on the performance of cooperatives vis-a-vis the purpose for which they are organized and registered. The report shall include data such as but not limited to, the approved and actual amount of member subscriptions, employment levels and job creation, including information on the quality of jobs and hiring of foreign and local workers, as applicable, interest on share capital, all taxes paid and withheld; and other benefits;

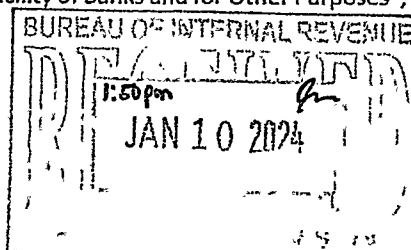
- (C) *“Annual Tax Incentives Report (ATIR)”* refers to the detailed report submitted by registered cooperatives to the CDA on tax incentives availed in a taxable year. The report shall contain cooperative-level data, such as but not limited to income-based tax incentives, value-added-tax (VAT) exemptions and zero-rating, customs duty exemption, deductions, credits or exclusions from the income tax base, exemptions from local taxes;
- (D) *“Bureau of Internal Revenue (BIR)”* refers to the government agency entrusted with the power to assess and collect all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith;
- (E) *“Certificate of Tax Exemption (CTE)”* refers to the ruling issued by the BIR granting tax exemptions to registered cooperatives;
- (F) *“Consolidated Annual Tax Incentives Report”* refers to the report to be submitted by the CDA to the BIR and FIRB containing information on the income tax, VAT, and other tax incentives availed of by cooperatives registered and enjoying incentives under relevant laws including RA No. 6938, as amended, and a comprehensive data/information of registered cooperatives;
- (G) *“Cooperative”* refers to an autonomous and duly registered association of persons with a common bond of interest who have voluntarily joined together to achieve their social, economic, and cultural needs and aspirations by making equitable contributions to the capital required, patronizing their products and services and by accepting a fair share of the risks and benefits of the undertaking in accordance with universally accepted cooperatives principles. The term includes Credit Surety Fund cooperatives.



- (H) *“Cooperative Development Authority (CDA)”* refers to the government agency organized and existing by virtue of RA No. 6939, as amended by RA No. 11364, whose aim is to promote the viability and growth of cooperatives as instruments of equity, social justice, and economic development;
- (I) *“Cost-benefit analysis (CBA)”* refers to the systematic evaluation of the total costs and benefits of granting fiscal incentives. The analysis shall cover direct, indirect, and opportunity costs and benefits;
- (J) *“Fiscal Incentives Review Board (FIRB)”* refers to the inter-agency government body given the authority by the CREATE Act to grant tax incentives to qualified registered business enterprises and exercises policy-making and oversight functions on the administration and grant of tax incentives by investment promotion agencies and other government agencies administering said incentives;
- (K) *“Fiscal Incentives Registration and Monitoring System (FIRMS)”* refers to the online system developed by the FIRB for purposes of registration, and/or incentives application and monitoring of investors or enterprises availing of incentives in any of the investment promotion agencies or other government agencies administering tax incentives;
- (L) *“Income-based tax incentives”* refers to income tax holidays, special corporate income tax, enhanced deductions, income tax exemptions, and other preferential income tax rate incentives pursuant to the NIRC of 1997, as amended, or other special laws; and
- (M) *“Registered Cooperative”* refers to a cooperative organized and registered under RA No. 9520¹ and RA No. 10744.²

¹ Entitled, “An Act Amending the Cooperative Code of the Philippines to be Known as the “Philippine Cooperative Code of 2008”, approved on 17 February 2009.

² Entitled, “An Act Providing for the Creation and Organization of Credit Surety Fund Cooperative to Manage and Administer Credit Surety Funds to Enhance the Accessibility of Micro, Small and Medium Enterprises, Cooperatives and Nongovernment Organizations to the Credit Facility of Banks and for Other Purposes”, lapsed into law on 6 February 2016.



Rule II. Compliance Requirements for Registered Cooperatives

Section 1. Filing of Tax Returns and Payment of Tax liabilities. – All registered cooperatives, whether taxable or not, shall file their tax returns and pay their tax liabilities, if any, on or before the deadline as provided under the NIRC of 1997, as amended, using the electronic system for filing and payment of taxes with the BIR. *Provided, That,* for purposes of complying with their tax obligations, cooperatives that do not have access to the electronic facilities shall file with their respective revenue district offices.

Section 2. Submission of the ATIR and ABR. – All registered cooperatives availing of tax incentives shall submit to the CDA a complete ATIR and ABR on or before the deadline prescribed below:

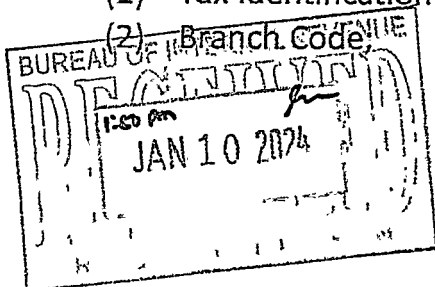
Accounting Period	Year Ending On	Deadline of submission
Calendar Year	December 31	May 15 of the immediately following year
Fiscal Year	January 1 – December 30	May 15 of the immediately following year

The report shall be duly signed by the Chairperson, General Manager, or any authorized officer of the concerned registered cooperative.

Registered cooperatives that utilize special or preferential treatment by virtue of free trade agreements, tax treaties, international agreements, or other similar agreements entered into by the Philippines shall likewise be required to submit an ATIR and ABR. For this purpose, said registered cooperative shall indicate such fact in the submitted ATIR and ABR.

Section 3. Contents of the ATIR and ABR. – The ATIR and ABR shall contain per-cooperative-level tax expenditure and benefits data for a given year. The reports shall be in a matrix format as presented in “Annex A” for ATIR and “Annexes B and B.1” for ABR. The reports shall, as far as applicable, also contain the following data, among others:

- (A) General description and characteristics of cooperatives:
- (1) Tax Identification Number (TIN);
 - (2) Branch Code;



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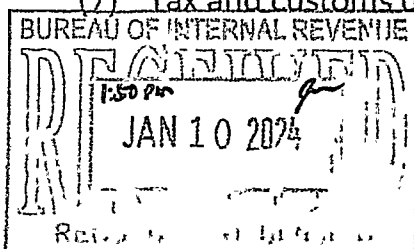
- (3) Name of Cooperative based on BIR registration;
- (4) Registered address/Branch Registered Address;
- (5) Asset size of cooperative (excluding land);
- (6) Certification of Registration;
- (7) Certificate of Tax Exemption;
- (8) Type of cooperative;
- (9) Category of cooperative;
- (10) Business activities;
- (11) Type of transactions;
- (12) Total asset and liabilities;
- (13) Gross sales/receipts;
- (14) Net sales/services/interest income;
- (15) Cost of sales/services;
- (16) Gross income;
- (17) Expenses;
- (18) Net surplus for allocation; and
- (19) Allocation for statutory distribution.

(B) Cost data:

- (1) Income-based tax incentives;
- (2) VAT exemption;
- (3) Percentage tax exemption;
- (4) Donor's tax exemption;
- (5) Excise tax exemption;
- (6) Documentary stamp tax (DST) exemption;
- (7) Tax and customs duties exemption;
- (8) Other tax exemptions applicable;
- (9) Annual registration fee exemption; and
- (10) Amount of actual donations made to charitable, research and educational institutions and reinvestment to socioeconomic projects within the area of operation of the cooperative.

(C) Benefits data:

- (1) Actual income tax paid;
- (2) Actual VAT paid;
- (3) Percentage tax paid;
- (4) Donor's tax paid;
- (5) Excise tax paid;
- (6) DST paid;
- (7) Tax and customs duties paid;



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- (8) Withholding tax on compensation paid;
- (9) Real property tax paid;
- (10) Local business tax paid;
- (11) Other taxes paid on unrelated activities;
- (12) Annual registration fee paid;
- (13) Amount utilized for cooperative's social activities;
- (14) Total amount of cooperative social activities fund;
- (15) Number of beneficiaries for cooperative social activities;
- (16) Amount utilized for Social Development Program for community;
- (17) Employees' data (such as count and compensation, among others);
and
- (18) Member's data (such as member's share capital and total count of members).

The above list is not exhaustive and subject to adjustments or modifications, as necessary. The Head of the FIRB Secretariat may, upon prior consultation with the CDA and upon due notice to the stakeholders, change the templates herein prescribed.

Rule III. Incentives Monitoring Mechanism

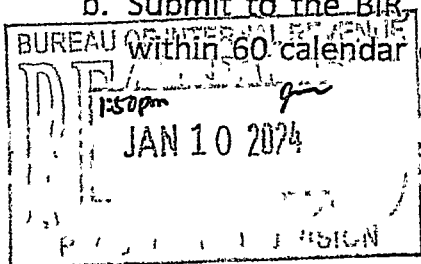
Section 1. Role of the CDA. – The CDA shall:

- a. Submit to the FIRB, in a machine-readable format, a consolidated ATIR (“Annex C”) and consolidated ABR (“Annex D”) for purposes of conducting an impact evaluation method, on or before the deadline prescribed below:

Accounting Period	Year Ending On	Deadline of CDA submission
Calendar Year	December 31	June 14 of the immediately following year
Fiscal Year	January 1 – December 30	June 14 of the immediately following year

Provided, That the FIRB shall generate the aforementioned reports upon the establishment of the reporting system for cooperatives in the FIRMS;

- b. Submit to the BIR, in a machine-readable format, a consolidated ATIR within 60 calendar days from the statutory deadline for filing of annual



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ITR and payment of taxes dues thereon, if any, depending on the accounting period used as follows:

Accounting Period	Year Ending On	Deadline of CDA submission:
Calendar Year	December 31	June 14 of the immediately following year
Fiscal Year	January 1 – December 30	60 days from the deadline of filing of ITR

- c. Submit to the FIRB and BIR, in a machine-readable format, a master list (“Annex E”) of all registered cooperatives entitled to incentives within thirty (30) calendar days after the approval of these Rules and after the close of each calendar year thereafter;

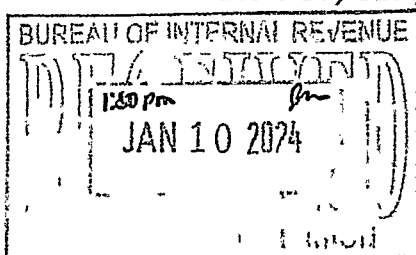
Provided, That the submission of a machine-readable master list to FIRB shall be required while the FIRB is completing the development of FIRMS for monitoring. Once the development of FIRMS is completed, the master list shall be submitted through the system;

- d. Submit to the BIR a machine-readable list of registered cooperatives that failed to submit the ATIR and/or ABR required under Section 2, Rule II of these Guidelines within thirty (30) calendar days from the deadline of the submission of said Reports; and
- e. Issue a **Memorandum Circular** to prescribe the procedure on the submission of reportorial requirements under these Guidelines after due consultation with registered cooperatives.

Section 2. Role of the BIR and BOC. – Notwithstanding any law to the contrary, the BIR and the BOC shall submit, on or before August 15 of every year, to the Department of Finance (DOF): (i) all tax and duty incentives of registered cooperatives, as reflected in filed tax returns and import entries; and (ii) actual tax and duty incentives as evaluated and determined by the BIR and the BOC.

Section 3. Role of the FIRB. – The FIRB shall:

- a. Systematically collect and store all tax incentives and benefits data from the DOF, CDA, and registered cooperatives;



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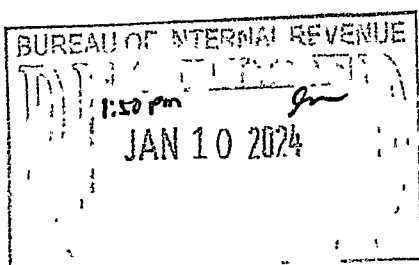
- b. Evaluate and assess the process, outcomes, and impact of incentives granted to registered cooperatives to determine whether intended results and outcomes are met;
- c. Conduct periodic performance reviews of the CDA and registered cooperatives in accordance with Section 297(A) of the Code;
- d. Maintain a master list of registered cooperatives entitled to incentives;
- e. Publish annually at a per registered cooperative-level the data pertaining to the amount of tax incentives, tax payments, and other related information, including benefits data and the result of the CBA, on the website of the FIRB not later than September 30 of the current year; and
- f. Submit the result of the CBA and other impact evaluations to the Office of the President and Congress on an annual basis.

Section 4. *Role of the DOF.* - The DOF shall:

- a. Maintain a single database for monitoring and analysis of tax incentives granted;
- b. Submit to the FIRB per registered cooperative-level, in a machine-readable format: (i) data on tax incentives based on the submissions of cooperatives; and (ii) other investment and non-investment related data, for purposes of conducting an impact evaluation method; and
- c. Submit to the Department of Budget and Management (DBM) a per registered cooperative-level data arranged on a per type or categories of cooperatives: (i) the amount of tax incentives availed of by registered cooperatives; (ii) the estimated claims of tax incentives immediately preceding the current year; (iii) the programmed tax incentives for the current year; and (iv) the projected tax incentives for the following year.

Section 5. *Role of the DBM.* —The DBM shall reflect the data submitted by the DOF under Section 7(c) of this Rule in the annual Budget of Expenditures and Sources of Financing (BESF), which shall be known as the Tax Incentives Information (TII) Section. The TII shall include data related to incentives availed of by registered cooperatives based on the submissions of the DOF and the CDA, categorized as follows:

- a. By type of cooperative; and
- b. By type of tax incentives



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Rule IV. Penalties³

Section 1. Failure to submit the Reportorial Requirements by a Registered Cooperative. — Any registered cooperative which fails to comply with filing and reportorial requirements with the CDA, and/or which fails to show proof of filing of tax returns using the electronic system for filing and payment of taxes of the BIR, shall be imposed the following penalties by the CDA:

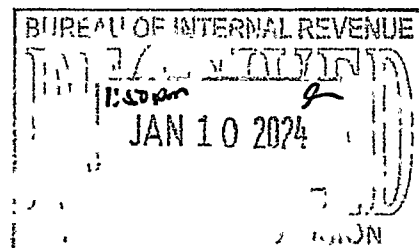
- a. **First (1st) Offense** — Payment of a fine amounting to One hundred thousand pesos (PhP100,000.00);
- b. **Second (2nd) Offense** — Payment of a fine amounting to Five hundred thousand pesos (PhP500,000.00); and
- c. **Third (3rd) Offense** — Revocation of the BIR-issued CTE of the cooperative.

Registered cooperatives shall submit the required data and reports mentioned in these Guidelines. If the failure to submit is not due to the fault of the registered cooperative, such as, but not limited to, acts of God or force majeure, the same shall not be a ground for the revocation of the BIR-issued CTE as provided in this Section. The registered cooperative has the burden of proving that said failure is not due to its fault.

Further, registered cooperatives shall be liable for the payment of taxes immediately upon the revocation of the CTE, inclusive of surcharge, interest, and compromise penalty. Upon payment of taxes, registered cooperatives can re-apply for the issuance of a certificate of tax exemption, which shall be effective only upon the lapse of the period of prohibition to avail of the tax exemption.

Section 2. Material Misrepresentation of Information for purposes of availing of incentives. The FIRB or the CDA may, after due process, cancel the registration, suspend the enjoyment of incentive benefits of any registered cooperatives, and require the refund of incentives enjoyed by such enterprise, including interests and monetary penalties, for any material misrepresentation of information for the purpose of availing more incentives that what it is entitled to under the Code.

³ Section 308 of CREATE Act.



Section 3. Non-compliance of Government Officials or Employees with the provisions of these Rules. — Any government official or employee who fails, without justifiable reason, to provide or furnish the required tax incentives report or other data or information within the prescribed period as required under these Rules shall be penalized, after due process, by a fine equivalent to the official's or employee's basic salary for a period of one (1) month to six (6) months or by suspension from government service for not more than one (1) year, or both, in addition to any criminal and administrative penalties imposable under existing laws.

Section 4. Accrual of penalties to the general fund. Any and all penalties imposed and collected by the CDA under this Rule shall accrue to the general fund.

Rule V. Information Dissemination

Section 1. Information Dissemination. — These Guidelines shall be disseminated nationwide. The FIRB, CDA, and the BIR shall undertake information campaigns and dissemination programs and activities.

Rule VI. Final Provisions

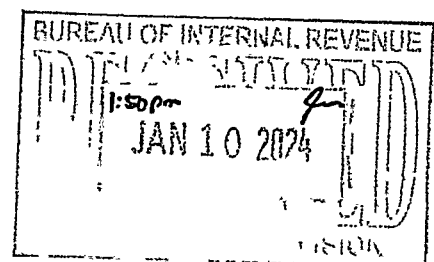
Section 1. Confidentiality Clause. — Data obtained from the reports submitted by the registered cooperatives shall be processed in accordance with Executive Order (EO) No. 2 (s. 2016) and other related issuances, RA No. 10173 and its IRR, and other relevant laws and issuances.

Section 2. Transitory Provisions. — The CDA shall, within 30 calendar days after the effectivity of these Rules, submit to the FIRB a consolidated ATIR required under RA No. 10708 covering the taxable year 2021.

Section 3. Separability Clause. — If any provision of these Guidelines is subsequently declared invalid or unconstitutional, the other provisions hereof which are not affected thereby shall remain in full force and effect.

Section 4. Repealing Clause. —The following issuances are hereby repealed, amended, or modified accordingly:

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- a. DOF and Department of Trade and Industry (DTI) Joint Administrative Order No. 1-2016 or the Rules and Regulations to Implement RA 10708;
- b. DOF-CDA-BIR Joint Administrative Order No. 1-2019 entitled "Rules and Regulations Implementing Section 3 of RA No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion Law;" and
- c. All other rules and regulations or parts thereof inconsistent with these Guidelines.

Section 5. Effectivity. — These Guidelines shall take effect fifteen (15) days following its publication in a newspaper of general circulation and filing of three (3) copies with the Office of National Administrative Register (ONAR), University of the Philippines (UP) Law Center, Diliman, Quezon City pursuant to Presidential Memorandum Circular No. 11 dated 09 October 1992.

B. E. D.
BENJAMIN E. DIOKNO
Secretary of Finance

MAR 09 2023



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