Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
EIGHTEENTH CONGRESS
Second Regular Session

COMMITTEE REPORT NO. 477

Submitted by the Committee on Cooperatives Development on SEP 10 2020
Re: House Resolution No. 524*
Informing the House of its findings and recommendations, pursuant thereto
Sponsors: Representatives Canama and Ty

Mr. Speaker:

The Committee on Cooperatives Development to which was referred House Resolution No. 524* introduced by Reps. Rico B. Geron, Virgilio S. Lacson, Presley C. De Jesus, Jose Gay G. Padiernos, Adriano A. Ebcas, Diego C. Ty, Godofredo N. Guya, Sergio C. Dagooc and Ron P. Salo, entitled:

‘RESOLUTION
DIRECTING THE COMMITTEE ON COOPERATIVES DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, TO CLARIFY THE PROVISIONS AND IMPLEMENTATION OF THE JOINT ADMINISTRATIVE ORDER NO. 1-2019 AND ITS IMPLICATION TO THE ISSUED BUREAU OF INTERNAL REVENUE MEMORANDUM CIRCULARS AND THE MEMORANDA ISSUED BY THE COOPERATIVE DEVELOPMENT AUTHORITY TO COOPERATIVES FOR THEIR COMPLIANCE WITH REPUBLIC ACT NO. 9520, THE COOPERATIVE CODE OF 2008’.

respectfully submits to the House its findings and recommendations.

Respectfully submitted,

REP. SABINIANO S. CANAMA
CHAIRPERSON
Committee on Cooperatives Development

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES
QUEZON CITY
Republic of the Philippines

HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
1st Regular Session

House Resolution No. 524


RESOLUTION
DIRECTING THE COMMITTEE ON COOPERATIVES DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, TO CLARIFY THE PROVISIONS AND IMPLEMENTATION OF THE JOINT ADMINISTRATIVE ORDER NO. 1-2019 AND ITS IMPLICATION TO THE ISSUED BUREAU OF INTERNAL REVENUE MEMORANDUM CIRCULARS AND THE MEMORANDA ISSUED BY THE COOPERATIVE DEVELOPMENT AUTHORITY TO COOPERATIVES FOR ITS COMPLIANCE WITH REPUBLIC ACT NO. 9520, THE COOPERATIVE CODE OF 2008

WHEREAS, it is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice;

WHEREAS, cooperatives serve as the fundamental driving force in stirring national development by enriching the standard of living at the grassroots level and supporting the growth of Philippine economy by spurring micro enterprise development in communities all over the country;

WHEREAS, RA 9520 provides for the Tax Treatment of Cooperatives under Article 60, 61 and 62, and on the basis of Article 144 of the said Code and Sections 4 and 244 of the National Internal Revenue Code, Joint Rules and Regulations and the appropriate BIR Memorandum Circulars were issued to implement the provisions of the tax treatment of cooperatives;

WHEREAS, with the passage of the RA 10963, the "Tax Reform for Acceleration and Inclusion Law" and RA 10708, the "Tax Incentives Management and Transparency Act", the necessary rules and regulations under the Joint Administrative Order No. 1-2019 (JAO) was issued by the Department of Finance with the concurrence of the Bureau of Internal Revenue and the Cooperative Development Authority;

WHEREAS, the JAO declares that in the "promotion of fiscal accountability and transparency in the grant and management of tax incentives by developing means to promptly measure the government’s fiscal exposure on these grants and to enable the government to monitor, review and analyze the economic impact thereof, and thereby
optimize the social benefits of such incentives.” is well-meant to fuel the thrust and direction government as taxes are, so to speak, is the lifeblood of government operations;

WHEREAS, the cooperative sector reiterates that on the basis of the tax provisions under RA 9520, the cooperatives’ self-reliant operations, the privilege cited under the JAO is a misnomer and violates the privilege granted to cooperatives;

WHEREAS, while the administrative roles of the CDA and BIR are recognized, the end-in-view of the JAO is to harass the cooperatives with the restrictive and stringent periods of compliance of the reportorial requirements leading cooperatives to violate “voluntarily” to the point that cooperatives in the interim must now pay taxes inclusive of surcharge, interest and compromise penalty because of the consequent revocation of the tax exemption privilege;

WHEREAS, the JAO is oppressive and violates the tax exemption privilege granted by law to cooperatives, and it aims to circumvent RA 9520, the Cooperative Code of the Philippines;

WHEREAS, the cooperative sector will comply with the reportorial requirements as mandated in the issuances of the BIR and CDA and are aware of the repercussions but to provide for prohibitive, restrictive and stringent penalties geared towards the obliteration of the tax exemption privileges of cooperatives under RA 9520 and is, likewise, violative of their right granted under the Philippine Constitution.

RESOLVED, AS IT IS HEREBY RESOLVED, to direct the Committee on Cooperatives Development to conduct an inquiry, in aid of legislation, for the concerned agencies to clarify pertinent provisions of the Joint Administrative Order No. 1-2019, its implementation and implications to other issued Bureau of Internal Revenue memorandum circulars and the memoranda issued by the Cooperative Development Authority to the cooperatives for its compliance with Republic Act No. 9520, the Cooperative Code of 2008.

November 11, 2019.

HON. RICO B. GERON

HON. VIRGILIO S. LACSON

HON. JOSE GAY G. PADIERNOS

HON. ADRIANO A. EBCAS

HON. PRESLEY C. DE JESUS

HON. DIEGO C. TY

HON. GODOFREDO N. GUYA

HON. SERGIO C. DAGOOC

HON. RON P. SALO
COMMITTEE REPORT
ON
HOUSE RESOLUTION NO. 524

INTRODUCED BY: REPS. RICO B. GERON, VIRGILIO S. LACSON, PRESLEY C. DE JESUS, JOSE GAY G. PADIERNOS, ADRIANO A. EBCAS, DIEGO C. TY, GODOFREDO N. GUYA, SERGIO C. DAGOOC AND RON P. SALO

‘RESOLUTION

DIRECTING THE COMMITTEE ON COOPERATIVES DEVELOPMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, TO CLARIFY THE PROVISIONS AND IMPLEMENTATION OF THE JOINT ADMINISTRATIVE ORDER NO. 1-2019 AND ITS IMPLICATION TO THE ISSUED BUREAU OF INTERNAL REVENUE MEMORANDUM CIRCULARS AND THE MEMORANDA ISSUED BY THE COOPERATIVE DEVELOPMENT AUTHORITY TO COOPERATIVES FOR ITS COMPLIANCE WITH REPUBLIC ACT NO. 9520, THE COOPERATIVE CODE OF 2008’.

PREFATORY STATEMENT

House Resolution No. 524 seeks to conduct an inquiry, in aid of legislation, to clarify the provisions and the implementation of the Joint Administrative Order (JAO) No. 1-2019 and its implication on the memorandum circulars issued by the Bureau of Internal Revenue and the memoranda issued by the Cooperative Development Authority to cooperatives for its compliance with the reportorial requirements under Republic Act No. 9520, the Cooperative Code of 2008’

The Committee conducted two (2) committee meetings on January 28, 2020 and February 19, 2020 and two (2) Technical Working Group meetings held on March 4, 2020 and March 11, 2020, respectively. The meetings were attended by members of the Committee, representatives from the Department of Finance (DOF), Bureau of Internal Revenue (BIR), Cooperative Development Authority (CDA) and the leaders of the cooperative sector.

FACTS

The declaration of policy of the JAO, states that “It is the policy of the state to promote fiscal accountability and transparency in the grant and management of tax incentives by developing means to promptly measure the government’s fiscal exposure on these grants and to enable the government to monitor, review and analyze the economic impact thereof, and thereby optimize the social benefits of such incentives.”
The representatives from the DOF, BIR and CDA were invited as resource persons to shed light on the concept of the JAO.

The JAO was jointly crafted by the DOF and the CDA whence the CDA was an attached agency to the DOF pursuant to the provisions of RA 10708 or the TIMTA Law and RA 10963, the TRAIN Law.

The roles of DOF, BIR and CDA are defined in the JAO under Rule III.

Rule II, Section 1 of the Joint Administrative Order (JAO) No. 1-2019 and Memorandum Circular (MC) No. 2019-06, Series of 2019 requires all types and categories of cooperatives registered with the CDA that were issued a Certificate of Tax Exemption (CTE) by the Bureau of Internal Revenue (BIR) and are availing incentives, to submit to the CDA the Annual Tax Incentives Report of their income-based tax incentives, value-added tax and duty exemptions, under RA No. 9520, and as mandated under Section 4, paragraph (2) of RA No. 10708 and Section 3 of RA No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion Law (TRAIN Law).

Cooperatives who fail to submit the Tax Incentive Report to the CDA, shall be meted a penalty provided for under Rule IV, Section 1 of the JAO 1-2019 and MC No. 2019-06 on the procedures in the submission of the annual tax incentive report pursuant to the JAO.

The authors of HR 524 inquired from the DOF, BIR and the CDA if the cooperative sector was consulted before the JAO was issued. The CDA Chairperson, Orlando Ravanera, stated that on the part of the CDA, the JAO was published and disseminated through the website of the CDA and in social media but no one registered any comment on the issuance.

It is the sentiment of the cooperative sector and that of the authors of HR 524 that the penalties for the failure to comply with the JAO are too harsh and are tantamount to the curtailment of the tax privilege of the cooperatives. It is likewise noted that the application for a CTE is difficult and stringent due to the various interpretations of the BIR Regional Directors on the supporting documents needed for the application of a CTE.

**ISSUES**

The cooperative sector finds issues with Rule IV re Non-compliance with Filing Reportorial Requirements of the JAO and finds it oppressive, violative of the privilege granted by law, and a circumvention of Article 60 and 61 on the Tax Provisions under RA 9520, the Cooperative Code of the Philippines.

The cooperative sector seeks to amend the penal provisions embodied under Rule IV of the Joint Administrative Order No. 1-2019 to quote:

“First Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of one (1) year from the date of the revocation
Second Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of three (3) years from the date of the revocation.

Third Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of five (5) years from the date of the revocation.

Fourth Offense: CTE shall be deemed revoked and cooperative shall be prohibited from re-application.”

The rejoinder of the cooperative sector is that it is willing to comply with the reportorial requirements as mandated in the issuances of the BIR and CDA as it is aware of the repercussions of the failure to do so. It is the opinion of the cooperative sector that the prohibitive, restrictive and stringent penalties imposed by Joint Administrative Order No. 1-2019 for non-compliance by the cooperatives of the reportorial requirements are actually geared towards the revocation of the tax exemption privilege of cooperatives under RA 9520. The thrust of the government is to generate revenue for government expenditures, and the revocation of the certificate of tax exemption will make the cooperatives liable to pay taxes inclusive of surcharge, interest and compromise penalty which is violative of their right as granted under RA 9520, the Philippine Cooperative Code of 2008.

FINDINGS AND RECOMMENDATION

1) Hon. Sabiniano S. Canama, Chairperson of the Committee on Cooperatives Development, expressed his misgivings on the propriety of issuing the JAO without consulting the cooperative sector, the affected sector. However, Mr. Orlando Ravanera, Chairman of the CDA, clarified that at the time the JAO was approved, the CDA was still an attached agency of the DOF.

2) Hon. Rico Geron, former Committee Chairperson, opined that the directive of BIR to require cooperatives to file tax returns and submit Annual Tax Incentives Receipts is reasonable in as much as cooperatives are also granted the privilege of tax exemption.

3) Mr. Alex Raquepo of the Sta. Cruz Development Cooperative (SACDECO), speaking in behalf of other affected cooperatives, stated that securing a CTE is complicated as BIR regional directors have different interpretations on the supporting documents required in the application for a CTE. Ms. Monserrat Venus A. Axalan, BIR representative responded that the BIR Legal Department is studying the varying interpretations of its regional directors.

4) Atty. Winston Garcia, representing the Cebu First Instance Credit Cooperative, opined that RA 11364, the CDA Charter was passed into law before the JAO was issued, the JAO should yield to it.

On the issue of the issuance of certificate of tax exemption (CTE), he stated that Sec. 14 of RA 11364, provides that “The Authority shall furnish the Bureau of Internal Revenue (BIR), LGUs which include provinces, highly-urbanized and independent cities, and other concerned agencies,
a certified list of duly registered cooperatives for purposes of processing tax exemptions.” Thus, BIR can no longer issue CTEs as the certified list shall be the basis for the processing and issuance of the CTE.

5) In response to the statement of Atty. Winston F. Garcia, Atty. Ronelyn Jaectin, DOF representative, stated that Sec. 14 of RA 11364 does not ipso facto grant CTEs to cooperatives as they still have to comply with BIR memorandum circulars. She then stated that taxation is the rule and exemptions are the exception. Atty. Dakila Elleen Napao, DOF Assistant Secretary, stated that he will present the policy issues to DOF Secretary Dominguez. He further stated that as far as the DOF is concerned the provisions under Rule II on the JAO on the Compliance Requirements for Registered Cooperatives of the JAO still stand but that DOF is willing to conduct a reevaluation based on the recommendations of the committee. On the part of the BIR, Atty. Rolbert Tibayan stated that BIR is open to recommendations.

6) In response to the complaints presented by the cooperative sector, BIR representative, Ms. Monserrat Venus A. Axalan, informed the Body that BIR has issued a revenue special order to address the issues on the issuance of CTE and the conduct of tax assessments for cooperatives with CTEs, among others. Ms. Axalan further stated that BIR’s role is to implement the JAO with the DOF as the monitoring agency. She also stated that the BIR is open to a dialogue with the cooperative sector.

7) Other comments from the cooperative sectors:

- Mr. Edwin Bustillos, representative from the Philippine Cooperative Center, an umbrella organization of cooperatives, reported that no consultations were conducted from the time that JAO was issued on May 16, 2019. Further, he proposed that Rule IV of the JAO be amended.

- Dr. Rita Gallardo, representative of Advocacy Coop, proposed the deferment of the implementation of JAO from July 2020 to December 2020.

- Ms. Sally Triñanes, of the CDA proposed that the required report be submitted to the CDA 120 days from the last day of the fiscal year. CDA Chair Ravanera also clarified that under CDA rules, cooperatives who fail to submit the annual tax incentives report are penalized with a fine of Php 100.00 a day until it complies accordingly.

8) The Committee created a TWG on February 19, 2020 upon a duly seconded motion of Rep. Godofredo N. Guya, to resolve once and for all the concerns of the cooperative sector. Consequently, the TWG proposed to amend the provision of JAO- Rule IV re Non-compliance with Filing Reportorial Requirements as follows:

“First Offense: The Cooperative concerned shall be served a warning for the non-filing, non-compliance of the reportorial requirements. A penalty of One thousand pesos (P1,000.00) shall be imposed on the cooperative for non-compliance.
Second Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of one (1) year from the date of the revocation.

Third Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of three (3) years from the date of the revocation.

Fourth Offense: CTE shall be deemed revoked and registered cooperative shall be prohibited to avail of tax exemption for a period of five (5) years from the date of the revocation.”

The Committee resolved to adopt the recommendations of the Technical Working Group. In view hereof, the Committee seeks the approval of the House of its findings and recommendations. Further, the Committee recommends that a copy of this Committee Report be furnished the Department of Finance, the Bureau of Internal Revenue and the Cooperative Development Authority, for their consideration.