REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

February 19, 2004

REVENUE MEMORANDUM CIRCULAR NO. 9-2004

SUBJECT : Guidelines and Policies Applicable to the Business Tax Applicable to Banks And Non-Bank Financial Intermediaries Performing Quasi-Banking Functions and other Non-Bank Financial Intermediaries As A Result of the Enactment and Effectivity of Republic Act No. 9238, An Act Amending Certain Provisions of the National Internal Revenue Code of 1997, as Amended, by Excluding Several Services from the Coverage of the Value-Added Tax and Re-Imposing the Gross Receipts Tax on Banks and Non-Bank Financial Intermediaries Performing Quasi-Banking Functions and Other Non-Bank Financial Intermediaries Beginning January 1, 2004.

TO : All Banks, Non-Bank Financial Intermediaries Performing Quasi-Banking Functions, Non-Bank Financial Intermediaries, Internal Revenue Officers and Others Concerned.

Background

Republic Act No. 9238 provides among others that effective January 1, 2004, services rendered by banks, non-bank financial intermediaries engaged in quasi-banking functions, and non-bank financial intermediaries are no longer subject to value-added tax, but are now subject to gross receipt tax. However, Republic Act No. 9238 was only published in a newspaper of general circulation on February 16, 2004. In view of the foregoing, banks, non-bank financial intermediaries engaged in quasi-banking functions, and non-bank financial intermediaries have had issued VAT receipts for services it had rendered prior to the February 16, 2004, and will have to file a VAT return therefore, and are liable for and remit the output VAT thereon to the Bureau of Internal Revenue.

However, recognizing that banks and non-bank financial intermediaries have issued VAT-invoice at the time the Republic Act have not yet been published, banks and non-bank financial intermediaries may be provided with an opportunity to refund the value added tax it has paid and remitted to the Bureau for the said transactions. Due to the urgency of the matter, i.e., the impending February

deadline for filing and paying their tax obligations under both the VAT and the GRT system, and pending the issuance of a revenue regulation to address the subject matter covered herein, this Revenue Memorandum Circular is being issued to provide guidelines and policies for transactions for which VAT invoices were issued for in 2004 by banks, non-bank financial intermediaries engaged in quasi banking functions, and non-bank financial intermediaries affected the said law. Other matters not covered herein shall be addressed by a revenue regulations to be issued hereafter.

Policies and Guidelines

1. Since the banks have already collected VAT and issued VAT receipt for their January 2004 transactions, the following rule shall apply to all transactions entered into by the banks for January 2004:

    a. Having issued VAT receipts and collected VAT for its January 2004 transactions, banks shall file a VAT return, and remit the VAT due thereon on or before February 20/25, 2004, as the case may be. The VAT return and the output VAT due for this period shall be the gross output VAT resulting from said transactions without any deduction, except for the creditable VAT actually withheld from the banks and non-bank financial intermediaries thereon.

    b. Bank shall report and pay gross receipt tax on transactions entered into for the month of January 2004, said report and payment shall be due on or before February 25, 2004.

    c. No input tax claim shall be allowed for any VAT invoice issued by banks dated 2004, however, clients of bank may include the same as part of the cost of the goods/services subject of the invoice.

    d. For transactions entered into in January 2004 for which VAT receipts were issued, clients may request for a refund from the banks provided the said VAT receipts are surrendered to the bank, and the bank cancel the same and issue a non-VAT invoice in place thereof.

    e. The bank may claim an adjustment of the VAT reported and paid for in the taxable month January 2004 actually refunded to client in accordance to the preceding paragraph against its gross receipt tax liability for only up to the month of April 2004, thereafter no adjustment shall be allowed. Provided, the said transaction is further substantiated by the client surrendered-cancelled VAT invoice and the issuance of a non-VAT invoice in place thereof.

2. For the February 2004 transactions of the banks, the following rule shall apply:

a. The banks shall no longer issue any VAT invoice starting February 16, 2004 for any transaction, i.e., the date of the publication of R.A. 9238.

b. For transactions covering the period February 1 –13, 2004, the same rule applicable to the banks January 2004 transactions shall apply. Provided, however, that

   i. Gross receipt tax on the banks' February 2004 transaction shall be due on or before March 25, 2004,

   ii. Banks may claim an adjustment of the VAT collected for this period and actually refunded, provided all the requirement as stated for the January 2004 are also present, against its gross receipt tax liability for only up to the month of May 2004, thereafter no adjustment shall be allowed.

c. For transactions covering the period beginning February 16, 2004 and after, the following rule shall apply:

   i. All transactions shall be subject to gross receipt tax, and the bank shall report and pay for the same on or before March 25, 2004.

   ii. In the event a VAT invoice is issued for any transactions for any reason whatsoever, the banks shall include in their February VAT return the VAT due on said transaction, and pay the VAT due on or before March 20/25, 2004.

   iii. Provided, however, no transactions for which VAT invoice was issued, whether the same was eventually cancelled or not, be allowed as an adjustment against any gross receipt tax liability of the banks.

   iv. In the event VAT invoices shall be issued, the provisions of the last paragraph of Section 109 of the Tax Code of 1997 shall be applicable.

3. No adjustment to gross receipt tax liability of banks in connection with its VAT liability shall be allowed after the month of May 2004.

4. No other adjustment other than those provided above shall be allowed against the gross receipt tax liability of the banks and non-bank financial intermediaries.

5. The VAT returns and payment made by the banks and non-bank financial intermediaries for the period covered, January 1, 2004 to February 15, 2004, are being made as a result of them having issued VAT invoice, and not because their services are subject to the value added tax system.

All internal revenue officers and other concerned are enjoined to give this Circular as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue