REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

5 May 2009

REVENUE MEMORANDUM CIRCULAR No. 24 – 2009

SUBJECT: Circularization of the relevant excerpts from the Supreme Court Decision in GR No. 171138, on the Issue of the Imposition of Documentary Stamps Tax on Pawn Tickets

TO: All Internal Revenue Officials and Employees Concerned

For the information and guidance of all internal revenue officials and employees concerned, quoted hereunder is the relevant portion of the Supreme Court Decision in GR No. 171138 (promulgated on April 7, 2009), concerning the imposition of Documentary Stamps Tax on pawn tickets:

"**H. Tambunting Pawnshop, Inc. v. CIR**
GR No. 171138, 7 April 2009

"x x x the pawn tickets is neither a security nor a printed evidence of indebtedness. But, precisely being a receipt for a pawn, it documents the pledge. A pledge is a real contract, hence, it is necessary in order to constitute the contract of pledge, that the thing pledged be placed in the possession of the creditor, or of a third person by common agreement. Consequently, the issuance of the pawn ticket by the pawnshop means that the thing pledged has already been placed in its possession and that the pledge has been constituted.

Second, on the subject of documentary stamp tax, the NIRC provides:

> SEC. 173. *Stamp Taxes Upon Documents, Loan Agreements, Instruments and Papers.* – **Upon documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales and transfers of the obligation, right or property incident thereto,** there shall be levied, collected and paid for, and **in respect of the transaction so had** or accomplished, the corresponding documentary stamp taxes prescribed in the following Sections… (Emphasis supplied.)
>
> Sec. 195. *Stamp Tax on Mortgages, Pledges and Deeds of Trust.* – **On every** mortgage or **pledge** of lands, estate, or property, real or personal, heritable or movable, whatsoever, where the same shall be made as a security for

the payment of any definite and certain sum of money lent at the time or previously due and owing or forborne to be paid, being payable, and on any conveyance of land, estate, or property whatsoever, in trust or to be sold, or otherwise converted into money which shall be and intended only as security, either by express stipulation or otherwise, **there shall be collected a documentary stamp tax** at the following rates:

(a) When the amount secured does not exceed Five thousand pesos (P5,000), Twenty pesos (P20.00)

(b) On each Five thousand pesos (P5,000), or fractional part thereof in excess of Five thousand pesos (P5,000), an additional tax of Ten pesos (P10.00). (Emphasis supplied.)

x x x x

The law imposes DST on documents issued in respect of the specified transactions, such as pledge, and not only on papers evidencing indebtedness. Therefore, a pawn ticket, being issued in respect of a pledge transaction, is subject to documentary stamp tax.

X x x The question of whether pawnshop transactions evidenced by pawn tickets are subject to documentary stamp taxes has been answered in the affirmative in *Michel J. Lhuillier Pawnshop, Inc. v. Commissioner of Internal Revenue.* There the Court held:

x x x x

Section 195 of the National Internal Revenue Code (NIRC) imposes a DST on every pledge regardless of whether the same is a conventional pledge governed by the Civil Code or one that is governed by the provisions of P.D. No. 114. All pledges are subject to DST, unless there is a law exempting them in clear and categorical language….

x x x x

… No law on legal hermeneutics could change the fact that the entries contained in a pawnshop ticket spell out a contract of pledge and that the exercise of the privilege to conclude such a contract is taxable under Section 195 of the NIRC.

All revenue officials and employees are enjoined to give this Circular as wide a publicity as possible.

(Original Signed)
SIXTO S. ESQUIVIAS IV
Commissioner of Internal Revenue