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Republic of the Philippines
Department of Finance
BUREAU OF INTERNAL REVENUE
Quezon City

June 13, 2016

REVENUE MEMORANDUM CIRCULAR NO. 62-2016

SUBJECT : **Clarification on Proper Tax Treatment of Passed-on Gross Receipts Tax**

TO : **All Revenue Officials, Employees and Other Concerned**

The Bureau has, on several occasions, ruled that banks and non-bank financial intermediaries may shift to their clients/borrowers the gross receipts tax (GRT) due on transactions covered under Sections 121 and 122 of the National Internal Revenue Code, as amended (Tax Code). This Circular is being issued to clarify the proper tax treatment of the "passed-on" GRT.

Q1. Who are directly liable for the GRT under Sections 121 and 122 of the Tax Code?

A1. All banks, non-bank financial intermediaries performing quasi-banking functions, financing companies and other financial intermediaries not performing quasi-banking functions doing business in the Philippines are directly liable for GRT pursuant to Sections 121 and 122 of the Tax Code.

"SEC. 121. Tax on Banks and Non-Bank Financial Intermediaries Performing Quasi-Banking Functions. – There shall be collected a tax on gross receipts derived from sources within the Philippines by all banks and non-bank financial intermediaries in accordance with the following schedule: xxx"

"SEC. 122. Tax on Other Non-Bank Financial Intermediaries. – There shall be collected a tax of five percent (5%) on the gross receipts derived by other non-bank financial intermediaries doing business in the Philippines, from interest, commissions, discounts and all other items treated as gross income under this Code: xxx"

Q2. Should the GRT passed-on to customers/clients/borrowers be included as part of the gross receipts under the purview of Sections 121 and 122 of the Tax Code?

A2. The "passed-on" GRT should form part of the tax base upon which the GRT is based for gross receipts tax purposes, based on the definition of "gross receipts", that is based on "actual or constructive receipt" of income. Since banks, non-bank financial intermediaries, financing companies and other financial intermediaries not performing

quasi-banking functions doing business in the Philippines are directly liable for GRT on gross receipts derived by them from business operations, the "passed-on" GRT shall be considered as receipt of gross income specified under Section 32(A) of the Tax Code.

Q3. What shall constitute the tax base for GRT purposes, if the GRT is shifted to the client/borrower?

A3. By way of illustration, assume that ABC Bank shifted the 5% GRT due on the interest collectible from XYZ Co. for loans extended by ABC Bank to XYZ Co.

Interest collectible from XYZ Co.	P	10,000.00
Add: "Passed-on" GRT (5%)		500.00
Total amount to be collected	P	10,500.00

The tax base for GRT purposes upon actual receipt by ABC Bank of interest and "passed-on" GRT shall be as follows:

	Tax Base	GRT Rate	GRT Due
Interest Received*	P 10,000.00	5%	P 500.00
"Passed-on" GRT**	500.00	7%	35.00
Total	P 10,500.00		P 535.00

* The interest received is subject to GRT pursuant to Section 121 (a) of the Tax Code.
**The "passed-on" GRT shall be treated as receipt of gross income specified under Section 32 (A) of the Tax Code and shall form part of the tax base subject to 7% GRT under Section 121(c) of the Tax Code. In case the recipient of the "passed-on" GRT is a non-bank financial intermediaries not performing quasi-banking functions, the "passed-on" GRT shall form part of the tax base subject to 5% GRT under Section 122 of the Tax Code.

Q4. What will be the characterization of the "passed-on" GRT to the banks and non-bank financial intermediaries?

A4. The "passed-on" GRT are considered as other fees and charges.

The classification of "passed-on" GRT as other fees and charges is consistent with the implementing rules issued by the Bangko Sentral ng Pilipinas (BSP) through BSP Circular No. 370 (Updated Rules Implementing the Truth in Lending Act to Enhance Loan Transaction Transparency) dated July 20, 2011. Pertinent portions of which reads:

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"Section 2. Definition of Terms

"Items g and h of Subsections X307.1, MORB are hereby amended to read as follows:

"xxx

"g. Finance charge includes interest, fees, service charges, discounts, and ***such other charges incident to the extension of credit.*** *xxx"* (emphasis supplied)

Q5. Can the "passed-on" GRT be claimed by the customer/client/borrower as a deduction for income tax purposes?

A5. Based on the above illustration, XYZ Co. can claim as deductible expense the P 10,000.00 interest paid to ABC Bank and the P 500.00 "passed-on" GRT (as other fees) under Section 34 of the Tax Code, subject, however, to the requirements for deductibility under Section 2.58.5 of Revenue Regulations (RR) No. 2-98, as amended by RR No. 12-2013.

Q6. What is the proper tax treatment by Banks and non-bank financial intermediaries on the "passed-on" GRT for income tax purposes?

A6. Banks and non-bank financial intermediaries can claim the GRT paid as a deductible expense for income tax purposes pursuant to Section 34 (C) of the Tax Code subject to the actual remittance of the GRT as provided under Section 128 of the Tax Code. The "passed-on" GRT shall be considered as receipt of income as specified under Section 32 of the Tax Code.

All other issuances inconsistent herewith are hereby repealed and modified accordingly.

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

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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