REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

November 22, 2012

REVENUE MEMORANDUM CIRCULAR NO. 77-2012

SUBJECT : Clarifying Certain Provisions of Revenue Regulations No. 14-2012 on the Proper Tax Treatment of Interest Income Earnings on Financial Instruments and Other Related Transactions

TO : All Internal Revenue Officers and Other Concerned

For the information and guidance of all concerned, this Circular is being issued to clarify certain provisions of Revenue Regulations (RR) No. 14-2012 on the *Proper Tax Treatment of Interest Income Earnings on Financial Instruments and Other Related Transactions.*

Q1. What is the tax treatment of interest income derived from government debt instruments and securities?

A1. For government debt instruments and securities, their mere issuance is deemed as falling within the coverage of "deposit substitutes" irrespective of the number of lenders at the time of origination. (Section 2[4] of RR 14-2012)

BIR Ruling No. 007-04 dated July 16, 2004 issued to the Bureau of Treasury explains:

> "xxx since the object of the issuance is to obtain the required government funding, the issuance and subsequent distribution (exchange and trading) of Government debt instruments and securities in the secondary market to other market participants, specifically, the investors, is in itself a public borrowing of the government. The financial assets (i.e., debt instruments and securities) in the hands of the investors represent a claim to future cash for which the borrowing entity, at maturity date, must have to pay. **It is, however, in the secondary market that the investing public make the indirect investment in the borrowing entity, in this case, the Government.**" (Emphasis and underscoring supplied)

Q2. Section 2(2) of RR 14-2012 provides:

> "SECTION 2. Tax Treatment of Interest Income Derived from Government Debt Instruments and Securities. –
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> 2. Interest Income derived therefrom is subject to Final Withholding Tax (FWT) at the rate of twenty percent (20%) pursuant to Sections 24(B)(1), 25(A)(2), 27(D)(1) and 28(A)(7)(a) or twenty five percent (25%) pursuant to Section 25(B) or thirty percent (30%) pursuant to Section 28(B)(1) of the NIRC of 1997, as amended, **payable upon original issuance of the deposit substitutes**;" (Emphasis and underscoring supplied)

Does the above provision mean that interest income on all Government Debt Instruments and Securities shall be payable upon original issuance of the instrument?

A2. In the case of *Zero-Coupon* instruments and securities, the Final Withholding Tax (FWT) is payable upon their original issuance. In the case of *Interest-Bearing* instruments and securities, the FWT is payable upon payment of the interest.

Q3. Does the imposition of the twenty percent (20%) Creditable Withholding Tax (CWT) on interest income derived from any other debt instrument not within the coverage of "deposit substitutes" and RR 14-2012 (now Section 2.57.2[Y] of Revenue Regulations No. 2-98) apply solely to instruments and securities that shall be issued or accounts that shall be opened beginning November 23, 2012 upon the RR's effectivity?

A3. The 20% CWT shall apply to each interest payment to be made beginning on November 23, 2012 or upon the RR's effectivity irrespective of when the instruments or securities were issued. This covers interest income from current outstanding instruments, securities, or accounts as of November 23, 2012.

Q4. Section 3(2) of RR 14-2012 provides:

> "SECTION 3. Tax Treatment of Interest Income Derived from Long-Term Deposits or Investment Certificates. –
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2. Absent any of the characteristics/conditions enumerated in **Section 4(1)** of these Regulations, interest income from long-term deposit or investment shall be subject to a Final Withholding Tax (FWT) at the rate of twenty percent (20%) pursuant to Sections 24(B)(1), 25(A)(2), 27(D)(1) and 28(A)(7)(a) of the NIRC of 1997, as amended." (Emphasis and underscoring supplied)

A4. The above provision should correctly read: "*Absent any of the characteristics/conditions enumerated in **Section 3(1)** of these Regulations xxx.*"

Q5. What is the tax treatment of interest income earned from Long-Term Deposits or Investment Certificates by a domestic corporation and resident foreign corporation?

A5. Interest income earned by a domestic corporation and resident foreign corporation from Long-Term Deposits not issued by banks or Investment Certificates that are not considered deposits or "deposit substitutes" shall be subject to regular corporate income tax of thirty percent (30%) pursuant to Sections 27(A) and 28(A)(1) of the NIRC of 1997, as amended, subject to 20% CWT required under Section 7 of RR 14-2012.

Q6. Section 9 of RR 14-2012 provides:

"SECTION 9. Documentary Stamp Tax. - The original issuance of debt instruments shall be subject to Documentary Stamp Tax in accordance with Section 179 of the NIRC of 1997, as amended. Thus, on every original issue of debt instruments, there shall be collected a documentary stamp tax of one peso (P1.00) on each two hundred pesos (P200), or fractional part thereof, of the issue price of any such debt instrument. **However, any assignment or re-assignment of said debt instruments shall be subject to the same documentary stamp tax mentioned above pursuant to Section 198 of the NIRC of 1997**." (Emphasis and underscoring supplied)

Is the DST imposed in all cases of assignments or re-assignments of debt instruments?

A6. Any assignment or re-assignment of debt instruments shall be subject to DST at the same rate imposed on the original instrument pursuant to Section 198 of the NIRC of 1997, as amended. This occurs only when the assignment or re-assignment of the debt instrument entails changing the maturity date or remaining period of coverage from that of the original instrument or carries with it

a renewal or issuance of new instruments in the name of the transferee to replace the old ones. Otherwise, the assignment or re-assignment shall be exempt from DST by virtue of Section 199(f) or (g) of the NIRC of 1997, as amended.

All other issuance inconsistent herewith are hereby repealed or modified accordingly.

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

This Circular takes effect immediately.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue