REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**

December 10, 2012

# REVENUE MEMORANDUM CIRCULAR NO. 81 - 2012

SUBJECT : Supplemental Clarifications on the 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 supplementing Revenue Memorandum Circular No. 77-2012.

Q1. What are the characteristics/conditions in order for interest income from long-term deposit or investment in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP) to be exempt from income tax under Sections 24(B)(1) and 25(A)(2) of the National Internal Revenue Code (NIRC) of 1997, as amended?

A1. As enumerated in Section 3(1) of RR 14-2012, the following characteristics/conditions must be present:

1. The depositor or investor is an individual citizen (resident or non-resident) or resident alien or non-resident alien engaged in trade or business in the Philippines;
2. The long-term deposits or investment certificates should be under the name of the individual and not under the name of the corporation or the bank or the trust department/unit of the bank;
3. The long-term deposits or investments must be in the form of savings, common or individual trust funds, deposit substitutes, investment management accounts and other investments evidenced by certificates in such form prescribed by the Bangko Sentral ng Pilipinas (BSP);
4. The long-term deposits or investments must be issued by banks only and not by other financial institutions;
5. The long-term deposits or investments must have a maturity period of not less than five (5) years;
6. The long-term deposits or investments must be in denominations of Ten Thousand Pesos (P10,000) and other denominations as may be prescribed by the BSP;
7. The long-term deposits or investments should not be terminated by the original investor before the fifth ($5^{th}$) year, otherwise they shall be subjected to the graduated rates of 5%, 12% or 20% on interest income earnings; and

8. Except those specifically exempted by law or regulations, any other income such as gains from trading, foreign exchange gain shall not be covered by income tax exemption.

Provided, that for interest income derived by individuals investing in common or individual trust funds or investment management accounts to be exempt from income tax, the following additional characteristics/conditions must ALL be present:

1. The investment of the individual investor in the common or individual trust fund or investment management account must be held/managed by the bank for at least five (5) years. The term "bank" referred to herein are banks duly licensed as such by the Bangko Sentral ng Pilipinas;

2. The underlying investments of the common or individual trust account or investment management accounts must comply with the requirements of Section 22(FF) of the NIRC of 1997, as amended, as well as the requirements mentioned above;

3. The common or individual trust account or investment management account must hold on to such underlying investment for at least five (5) years.

Example –

Mr. X (a resident citizen) appoints Bank A - Trust Department to manage his money created through a trust agreement. Bank A - Trust Department then invests said money in a 5-year corporate bond.

1 - Even if Mr. X does not withdraw his money from such trust agreement for at least five (5) years, his interest income from the trust agreement will NOT be exempt from the final withholding tax (FWT) as the underlying investment is a corporate bond, even if such corporate bond has a maturity period of five (5) years. The underlying instrument needs to comply with the requirements of Section 22(FF) of the NIRC of 1997, as amended, as well as the requirements mentioned in A1 above. A bond, promissory note or any other type of debt instrument issued by a non-bank corporation as an underlying instrument will not meet the requirements of Section 22(FF) as it is not issued by a bank.

2 - If Bank A - Trust Department in its own name without mentioning the particular individual for whom the investment is being made invests the fund instead in a 10-year long-term deposit or investment certificate, the long-term deposits and investments made in the name of a trust department of a bank are not exempted from the twenty percent (20%) final withholding tax (FWT). Only those made specifically "in trust for the name of specific and qualified individual investors" may be exempted from income tax under Sections 24(B)(1) and 25(A)(2) of the NIRC of 1997, as amended, provided they comply with Section 22(FF) of the NIRC of 1997.

3 - If Bank A – Trust Department in the name of Mr. X invests the fund instead in a 10-year long-term deposit or investment certificate as defined under Section 22(FF) of the NIRC of 1997, as amended, Mr. X's interest

income derived from the trust agreement shall be exempt from income tax provided that Bank A – Trust Department in behalf of Mr. X will hold such deposit or investment for at least five (5) years. The holding period for both the individual investor in the trust agreement and the trust in the underlying instrument must both be at least five (5) years.

Q2. An individual depositor or investor (a citizen [resident or non-resident], a resident alien, or a non-resident alien engaged in trade or business in the Philippines) invests in a long-term deposit or investment as defined under Section 22(FF) of the NIRC of 1997, as amended, which has a remaining maturity period of less than five (5) years, and said investor holds the said deposit or investment until maturity. What is the final withholding tax (FWT) due?

A2. The individual depositor or investor who acquired the instrument shall be subject to twenty percent (20%) FWT on his interest income because the remaining maturity period is less than five (5) years.

Q3. An individual depositor or investor (a citizen [resident or non-resident], a resident alien, or a non-resident alien engaged in trade or business in the Philippines) invests in a long-term deposit or investment as defined under Section 22(FF) of the NIRC of 1997, as amended, which has an original tenor of more than five (5) years, but eventually held the same for less than five (5) years upon exercising his call option. What are the final withholding taxes (FWT) due?

A3. The individual depositor or investor who acquired the instrument with a maturity period of more than five (5) years, but eventually held the same for less than five (5) years upon exercising his call option, shall be subject to the graduated rates of FWT provided in Sections 24(B)(1) and 25(A)(2) depending on the period he held the same.

Q4. When is the effectivity date of the provisions of Revenue Regulations No. 14-2012 pertiaining to the exemption of long-term deposits or investment certificates as defined in Section22 (FF) of the NIRC of 1997, as amended?

A4. Revenue Regulations No. 14-2012 merely implements, among others, Sections 24(B)(1) and 25(A)(2) of the NIRC of 1997, as amended. Accordingly, its pertinent provisions shall apply to (1) all pre-terminations/transfers, sale or acquisition, of current outstanding long-term deposits or investment certificates and new issues; (2) all the interest coupon payments of current outstanding long-term deposits or investments certificates as may be applicable and new issues; and (3) to all current outstanding underlying investments of investment certificates in the form of common or individual trust funds or investment management accounts and new issues upon the effectivity of the Revenue Regulations on November 23, 2012.

The foregoing covers interest income from current outstanding instruments, securities or accounts as of November 23, 2012.

All other issuances including rulings inconsistent herewith are hereby revoked 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