REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

August 20, 2008

REVENUE REGULATIONS NO. 8 - 2008

SUBJECT : Supplementing Revenue Regulations No. 09-2004, as Amended by Revenue Regulations No. 10-2004, Clarifying that the Transactions of the Bangko Sentral ng Pilipinas (BSP) Entered into in the Exercise of its Governmental/Regulatory Authority are outside of the Coverage of the Gross Receipts Tax Imposed Under Sections 121 and 122 of the 1997 National Internal Revenue Code, as Last Amended by Republic Act No. 9337.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. – Pursuant to the provisions of Section 244, in relation to Sections 121 and 122, of the National Internal Revenue Code of 1997 (the "Code"), as last amended by Republic Act No. 9337 and implemented by Revenue Regulations No. 9-2004, as amended by Revenue Regulations No. 10-2004, these Regulations are hereby promulgated in order to rationalize the implementation of Sections 121 and 122 of the Code, relative to the imposition of gross receipts tax (GRT) on banks and non-bank financial intermediaries performing quasi-banking functions, and on other non-bank financial intermediaries, respectively, by clarifying that the transactions undertaken by the Bangko Sentral ng Pilipinas (BSP) in pursuit of its primary and ancillary functions as the central monetary authority are outside of the coverage thereof.

SEC. 2. NATURE OF GRT AND ITS IMPOSITION UNDER SECTIONS 121 AND 122 of the Code. –

GRT is a form of percentage tax, which is defined as a business tax imposed on persons or entities who sell/lease goods or services in the course of trade or business in the Philippines. GRT, which is a tax imposed on the privilege of doing business, is a broad-based, low-rate tax imposed on all income received by a business without any deductions for costs of doing business.

Pursuant to Section 121 of the Code, GRT is imposed on banks and non-bank financial intermediaries performing quasi-banking functions, and on persons performing similar banking activities. Section 122 of the Code, on the other hand, imposes GRT on other non-bank financial intermediaries or financing companies, and on persons performing similar financing activities.

SEC. 3. DEFINITION OF TERMS. – For purposes of these Regulations, the terms enumerated hereunder shall have the following meanings:

3.1. Banks or Banking Institutions. – shall refer to those entities as defined under Section 3 of Republic Act No. 8791, otherwise known as the General Banking Law of 2000, or more specifically, to entities engaged in the lending of funds obtained in the form of deposits. The term "banks" or "banking institutions" are synonymous and interchangeable and specifically include universal banks, commercial banks, thrift banks (savings and mortgage banks, stock savings and loan associations, and private development banks), cooperative banks, rural banks, Islamic banks and other classifications of banks as may be determined by the Monetary Board of the BSP.

3.2. Non-bank Financial Intermediaries. – shall refer to persons or entities whose principal function include the lending, investing or placement of funds or evidences of indebtedness or equity deposited with them, acquired by them or otherwise coursed through them, either for their own account or for the account of others. This includes all entities regularly engaged in the lending of funds or purchasing of receivables or other obligations with funds obtained from the public through the issuance, endorsement or acceptance of debt instruments of any kind for their own account, or through the issuance of certificates, or of repurchase agreements, whether any of these means of obtaining funds from the public is done on a regular basis or only occasionally.

3.3 Quasi-banking Functions. – shall refer to the borrowing of funds from twenty (20) or more personal or corporate lenders at any one time, through the issuance, endorsement or acceptance of debt instruments of any kind, other than deposits, for the borrower's own account or through the issuance of certificates of assignment or similar instruments, with recourse, or of repurchase agreements for purposes of relending or purchasing receivables or other similar obligations. Provided, however, that commercial, industrial and other non-financial companies, which borrows funds through any of these means for the limited purpose of financing their own needs or the needs if their agents or dealers, shall not be considered as performing quasi-banking functions.

3.4 Deposit Substitutes. – shall refer to an alternative form of obtaining funds from the public (i.e., twenty (20) or more individual or corporate lenders at any one time), other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the

borrower's own account, for the purpose of relending or purchasing receivables and other obligations, or financing their own needs or the needs of their agent or dealer.

3.5. Banking Activities. – shall refer to the functions or operations conducted to carry on the business of commercial banking such as accepting drafts and issuing letters of credit; discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; accepting or creating demand deposits; receiving other types of deposits and deposit substitutes; buying and selling foreign exchange and gold or silver bullion; acquiring marketable bonds and other debt securities; and extending credit, subject to such rules as the Monetary Board of the BSP may promulgate.

SEC. 4. BANGKO SENTRAL NG PILIPINAS AS CENTRAL MONETARY AUTHORITY. – Pursuant to Article XII, Section 20 of the 1987 Constitution, Congress enacted Republic Act No. 7653, creating the Bangko Sentral ng Pilipinas as an independent central monetary authority. In accordance with Section 3 thereof, the BSP shall provide policy directions in the areas of money, banking and credit. It shall have supervision over the operations of banks and exercise regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

The primary objective of the BSP is to maintain price stability conducive to a balanced and sustainable growth of the economy. It shall also promote and maintain monetary stability and the convertibility of the peso.

BSP, as the constitutionally-mandated independent central monetary authority, performs governmental functions in order to achieve its responsibilities and objectives, as prescribed under the 1987 Constitution and R.A. No. 7653. The activities engaged in, and transactions undertaken, by the BSP, are geared towards the attainment of its constitutional and statutory mandates, and not in pursuit of commercial or business activities.

Any revenues generated by the BSP from its operation will not transform such activities into a business undertaking. The GRT, being a tax imposed on the privilege to engage in business, is not imposable on the revenues generated by the BSP in the performance of its legally-mandated functions.

Further, taking into consideration the indispensable functions and vital role of the BSP in the attainment of monetary stability and economic growth of the Philippines, the imposition of GRT on its transactions might impact on its ability to implement monetary policies and to discharge its legally-mandated functions efficiently and effectively.

In view thereof, the BSP is clearly neither a bank nor a non-bank financial intermediary performing quasi-banking functions nor falling under the term "other non-bank financial intermediaries", as these terms are defined above. Neither can BSP be considered as being engaged in the performance of similar banking and financing activities.

Consequently, the imposition of GRT on banks, non-bank financial intermediaries performing quasi-banking functions, other non-bank financial intermediaries/financing companies, and on persons performing similar banking or financing activities, as prescribed under Sections 121 and 122 of the Code, as amended, do not apply to the revenues realized by the BSP in the œnduct of its operations in the pursuit of its legally-mandated functions.

SEC. 5. EXCLUSION OF BSP TRANSACTIONS FROM THE COVERAGE OF GRT IMPOSED BY SECS. 121 AND 122 OF THE CODE, AS AMENDED. – In accordance with the foregoing, the GRT imposed on banks and non-bank financial intermediaries performing quasi-banking functions pursuant to Sec. 121 and on other non-bank financial intermediaries pursuant to Sec. 122 of the Code, as amended, and as implemented by Revenue Regulations No. 9-2004, as amended by Revenue Regulations No. 10-2004, shall not apply to the income or revenue realized by the BSP from its transactions undertaken in pursuit of its legally-mandated functions.

SEC. 6. SEPARABILITY CLAUSE. – If any provision of these Regulations is held unconstitutional or invalid, all other provisions not affected thereby shall remain valid.

SEC. 7. REPEALING CLAUSE. –All revenue regulations and other pertinent issuances, or portions thereof, which are inconsistent with the provisions of these Regulations are hereby deemed amended.

SEC. 8. EFFECTIVITY CLAUSE. -These Regulations shall take effect fifteen (15) days following publication in a newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
LILIAN B. HEFTI
Commissioner of Internal Revenue