

MODE OF PAYMENT AND/OR REMITTANCE OF THE DOCUMENTARY STAMP TAX (DST) UNDER CERTAIN CONDITIONS

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SECTION 1. Scope - Pursuant to Section 244, in relation to Sections 173, 200 and 245 of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated in order to specifically identify the persons liable for the documentary stamp tax, and who under certain conditions, shall be responsible for the payment/remittance of the aforesaid tax.

SEC. 2 Nature of the Documentary Stamp Tax and Persons Liable for the Tax. -

(a) In General - The documentary stamp taxes under Title VII of the Code is a tax on certain transactions. It is imposed against "the person making, signing, issuing, accepting, or transferring" the document or facility evidencing the aforesaid transactions. Thus, in general, it may be imposed on the transaction itself or upon the document underlying such act. Any of the parties thereto shall be liable for the full amount of the tax due: Provided, however, that as between themselves, the said parties may agree on who shall be liable or how they may share on the cost of the tax.

(b) Exception - Whenever one of the parties to the taxable transaction is exempt from the tax imposed under Title VII of the Code, the other party thereto who is not exempt shall be the one directly liable for the tax.

SEC. 3. Mode of Payment and Remittance of the Tax -

(a) In general- Unless otherwise provided in these Regulations, any of the aforesaid parties to the taxable transaction shall pay and remit the full amount of the tax in accordance with the provisions of Section 200 of the Code.

(b) Exceptions -

(1) If one of the parties to the taxable transaction is exempt from the tax, the other party who is not exempt shall be the one directly liable for the tax, in which case, the tax shall be paid and remitted by the said non-exempt party, unless otherwise provided in these Regulations.

(2) If the said tax-exempt party is one of the persons enumerated in Section 3(c)(4) hereof, he shall be constituted as agent of the Commissioner for the collection of the tax, in which case, he shall remit the tax so collected in the same manner and in accordance with the provisions of Section 200 of the Code: Provided, however, that if he fails to collect and remit the same as herein required, he shall be treated personally liable for the tax, in addition to the penalties prescribed under Title X of the Code for failure to pay the tax on time.

(3) The said tax-exempt party, who is constituted as agent for the collection of the tax, shall issue an acknowledged receipt in respect of the documentary stamp tax so collected from the aforesaid another party and the same shall be remitted in accordance with the provisions of these Regulations.

(c) Person liable to remit the DST - In general, the full amount of the tax imposed under Title VII of the Code may be remitted by any of the party or parties to the taxable transaction, except in the following cases:

(1) Stamp tax on bonds, debentures, certificates of indebtedness, deposit substitute, or other similar instruments - The tax shall be remitted by the person who issued the instruments (e.g. "X" CORPORATION borrowed funds from the public through the issuance and sale of its interest-bearing Bonds. In this case, the stamp tax due thereon shall be remitted by "X" CORPORATION.)

(2) Stamp tax on original issue of shares of stock in a corporation - The corporation, which issued the share or shares of stock, shall remit the tax due on the said issuance. The share of stock is considered issued upon acceptance by the corporation of the subscribers subscription for stock in the corporation, the actual delivery by the corporation of the certificate evidencing the share of stock to the contrary notwithstanding.

(3) Stamp tax on Jai-Alai, Horse Race, Lotto or other Authorized Numbers Games - The proprietor or operator shall remit the tax. If such proprietor or operator is exempt from the tax, he shall collect the tax from the other party who is not exempt from the tax, and shall remit the same in the manner as prescribed in these Regulations.

EXAMPLE:

(a) The Philippine Charity Sweepstakes Office (PCSO), as a charitable institution under R.A. No. 1160, as amended, is exempt from all taxes for which it may otherwise be directly liable pursuant to the provisions of ART. VI, Sec. 28 (3) of the 1987 Constitution. The PCSO sells sweepstakes and Lotto tickets to the public who, however, does not enjoy the same tax exemption privilege. Pursuant to Section 173 of the Code which provides that, whenever one of the parties to the taxable document or transaction is exempt from the stamp tax, the other party who is not exempt shall be liable for the tax. Consequently, the PCSO shall collect the tax from sweepstakes and Lotto tickets buyers, and shall remit the tax so collected in accordance with the provisions of these Regulations.

(b) The Philippine Amusement and Gaming Corporation (PAGCOR), either by itself or through its licensees or grantees, undertake "Number Games" and sell "betting cards" to the betting public (e.g., "Bingo Cards"). In this case, PAGCOR or its licensees/grantees shall remit the documentary stamp tax to the Bureau on their respective sale of "betting cards" to the betting public.

(4) When one of the parties to the taxable document or transaction is included in any of the entities enumerated below, such entity shall be responsible for the remittance of the stamp tax prescribed under Title VII of the Code: Provided, however, that if such entity is exempt from the tax herein imposed, it shall remit the tax as a collecting agent, pursuant to the preceding paragraph 3(b)(2) hereof, any provision of these Regulations to the contrary notwithstanding:

(a)

A bank, a quasi-bank or non-bank financial intermediary, a finance company, or an insurance, a surety, a fidelity, or annuity company;

(b)

The proprietor or operator of Jai-alai, Horse-racing, Lotto and other Authorized Numbers Games, as provided in these regulations;

(c)

The Philippine Stock Exchange (PSE), in the case of shares of stock and other securities traded in the local stock exchange;

(d)

A pre-need company on sale of pre-need plans as provided under Section 186 of the Code. For purposes of these Regulations, the term "Pre-need" company shall include those providing pre-need health care services, educational plan, memorial plan, pension plan, and other similar services.

(e)

An educational institution in respect of issuance of taxable certificates (e.g., Diploma, Transcript of Record, and other documents taxable as certificates under Section 188 of the Code);

(f)

Warehouse operators in respect of warehouse receipts taxable under Section 189 of the Code;

(g)

The Corporation vis-a-vis the stamp tax on "Proxies" in the exercise of the stockholders' voting right, taxable under Section 192 of the Code (e.g., appointment of a proxy in the election of the corporation's members of the Board);

(h)

The transportation contractor vis-a-vis the Bills of Lading or Receipts taxable under Section 191 of the Code;

(i)

Franchise grantees and other taxpayers paying a fixed percentage of the prescribed taxable base in lieu of all internal revenue taxes, and

SEC. 4. Use of "On-Line Electronic DST Imprinting Machine" - Unless expressly exempted by the Commissioner on meritorious grounds, the following class of taxpayers shall use the on-line electronics DST imprinting machine" in the payment and remittances of their documentary stamp taxes:

(a)

A bank, a quasi-bank or a non-bank financial intermediary, a finance company, or an insurance, a surety, a fidelity, or annuity company;

(b)

The Philippine Stock Exchange (PSE), in the case of shares of stock and other securities traded in the local stock exchange;

(c)

Shipping and airline companies;

(d)

A pre-need company on sale of pre-need plans as provided under Section 186 of the Code; and

(e)

Such other industries as may be required by the Commissioner to use the "on-line electronic DST imprinting machine".

The term "on-line electronic DST imprinting machine" shall refer to a device capable of imprinting the value of the stamp tax and other data on the taxable document, with remote loading and resetting feature, and/or with built-in

modem which enables users to load/purchase the stamp tax value through an on-line set-up or electronic data transmission with the BIR, thereby enabling the latter to monitor actual usage or stamp consumption of the users.

SEC. 5. Repealing Clause - Any revenue issuance inconsistent herewith shall be considered amended, modified or revoked accordingly.

SEC. 6. Effectivity Clause - These Regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Adopted: 31 Aug. 2000

(SGD.) JOSET. PARDO

Secretary of Finance

RECOMMENDING APPROVAL:

(SGD.) DAKILA B. FONACIER

Commissioner of internal Revenue

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