

**[ BIR REVENUE MEMORANDUM CIRCULAR NO. 58-2008, August 15, 2008 ]**

**CLARIFYING THE TIME WITHIN WHICH TO RECKON THE REDEMPTION PERIOD ON THE FORECLOSED ASSET AND THE PERIOD WITHIN WHICH TO PAY CAPITAL GAINS TAX OR CREDITABLE WITHHOLDING TAX AND DOCUMENTARY STAMP TAX ON THE FORECLOSURE OF REAL ESTATE MORTGAGE BY THOSE GOVERNED BY THE GENERAL BANKING LAW OF 2000 (REPUBLIC ACT NO. 8791), AS WELL AS THE VENUE FOR THE PAYMENT OF THESE TAXES**

Republic Act No. 8791 (RA8791), otherwise known as "The General Banking Law of 2000", has provided for the following with respect to the foreclosure of real estate mortgages by banks, those engaged in quasi-banking activities, and trust companies:

*"SECTION 47. Foreclosure of Real Estate Mortgage. — In the event of foreclosure, whether judicially or extrajudicially, of any mortgage on real estate which is security for any loan or other credit accommodation granted, the mortgagor or debtor whose real property has been sold for the full or partial payment of his obligation shall have the right **within one year after the sale of the real estate**, to redeem the property by paying the amount due under the mortgage deed, with interest thereon at the rate specified in the mortgage, and all the costs and expenses incurred by the bank or institution from the sale and custody of said property less the income derived therefrom. However, the purchaser at the auction sale concerned, whether in a judicial or extrajudicial foreclosure, shall have the right to enter upon and take possession of such property immediately after the date of the confirmation of the auction sale and administer the same in accordance with law. Any petition in court to enjoin or restrain the conduct of foreclosure proceedings instituted pursuant to this provision shall be given due course only upon the filing by the petitioner of a bond in an amount fixed by the court conditioned that he will pay all the damages which the bank may suffer by the enjoining or the restraint of the foreclosure proceeding.*

"Notwithstanding Act 3135, **juridical persons** whose property is being sold pursuant to an extrajudicial foreclosure, shall have the **right to redeem the property** in accordance with this provision until, but not after, the registration of the certificate of foreclosure sale with the applicable Register of Deeds which **in no case shall be more than three (3) months** after foreclosure, whichever is earlier. Owners of property that has been sold in a foreclosure sale prior to the effectivity of this Act shall retain their redemption rights until their expiration,