

[BIR REGULATIONS NO. 10-98, August 25, 1998]

IMPLEMENTING THE PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED BY REPUBLIC ACT NO. 8424, RELATIVE TO THE IMPOSITION OF INCOME TAXES ON INCOME DERIVED UNDER THE FOREIGN CURRENCY DEPOSIT AND OFFSHORE BANKING SYSTEMS

Scope — Pursuant to Section 244, in relation to Sections 24, 25, 27 and 28 of the National Internal Revenue Code of 1997, as amended by R.A. No. 8424, these Regulations are hereby promulgated to govern the imposition of income taxes on income derived under the Foreign Currency Deposit and Offshore Banking Systems.

Sec. 2.22. Definition of Terms —

(A) *Foreign Currency Deposit System* — shall refer to the conduct of banking transactions whereby any person whether natural or juridical may deposit foreign currencies forming part of the Philippine international reserves, in accordance with the provisions of Republic Act No. 6426 entitled "*An Act Instituting a Foreign Currency Deposit System in the Philippines, and For Other Purposes.*"

(B) *Foreign Currency Deposit Unit (FCDU)* — shall refer to that unit of a local bank or of a local branch of a foreign bank authorized by the Bangko Sentral Ng Pilipinas (BSP) to engage in foreign currency-denominated transactions, pursuant to the provisions of R.A. 6426, as amended. ("Local bank" shall refer to a thrift bank or a commercial bank organized under the laws of the Republic of the Philippines. "*Local branch of a foreign bank*" shall refer to a branch of a foreign bank doing business in the Philippines, pursuant to the provisions of R.A. No. 337, as amended).

(C) *Offshore Banking System* — shall refer to the conduct of banking transactions in foreign currencies involving the receipt of funds principally from external and internal sources and the utilization of such fund pursuant to Presidential Decree No. 1034 as implemented by CB (now BSP) Circular No. 1389, as amended.

(D) *Offshore Banking Unit (OBU)* — shall mean a branch, subsidiary or affiliate of a foreign banking corporation which is duly authorized by the Bangko Sentral Ng Pilipinas (BSP) to transact offshore banking business in the Philippines in accordance with the provisions of Presidential Decree No. 1034 as implemented by CB (now BSP) Circular No. 1389, as amended.

(E) *Deposits* — shall mean funds in foreign currencies which are accepted and held by an Offshore Banking Unit or Foreign Currency Deposit Unit in the regular course of business, with the obligation to return an equivalent amount to the owner thereof, with or without interest.

(F) *Resident* — shall mean

- (1) an individual citizen of the Philippines residing therein; or
- (2) an individual who is not a citizen of the Philippines but is permanently residing therein; or
- (3) a corporation or other juridical person organized under the laws of the Philippines; or
- (4) a branch, subsidiary, affiliate, extension office or other unit of corporations or juridical persons organized under the laws of any foreign country operating in the Philippines.

(G) *"Non-resident"* — shall mean an individual, corporation or other juridical person not included in the above definition of "resident".

(H) *Filipino Overseas Contract Worker (OCW)* — means an individual citizen of the Philippines referred to under Section 23(C) of the Code.

A Filipino Seaman is a citizen of the Philippines who receives compensation for services rendered abroad as a member of the complement of an ocean-going vessel engaged exclusively in international trade as referred to under Section 23(C) of the Code.

Sec. 2.24. Income Tax Rate of Interest Income from Foreign Currency Deposit —

(A) Individual Income Tax on Interest Income from a Depository Bank under the Foreign Currency Deposit System

(1) Interest income which is actually or constructively received by a resident citizen of the Philippines or by a resident alien individual from a foreign currency bank deposit shall be subject to a final withholding tax of seven and one-half percent (7.5%). The depository bank shall withhold and remit the tax pursuant to Sections 57 and 58 (withholding tax at source) of the Code.

(2) If a bank account is jointly in the name of a non-resident citizen such as an overseas contract worker, or a Filipino seaman, and his spouse or dependent who is a resident in the Philippines, fifty percent (50%) of the interest income from such bank deposit shall be treated as exempt while the other fifty percent (50%) shall be subject to a final withholding tax of seven and one-half percent (7.5%).

(B) Compliance and Administrative Procedures for Non-Resident Citizen and Non-Resident Alien. The tax on interest income from foreign currency deposit shall be imposed unless the depositor who is a non-resident citizen or a non-resident alien can present documentary evidence that he is not a resident of the Philippines. Such evidence shall consist of the original or certified copy of any of the following:

- (1) an immigration visa issued by the foreign government in the country where he is a resident of; or