

[BIR REVENUE REGULATION NO. 9-94, March 08, 1994]

REPUBLIC ACT NO. 7660, AN ACT RATIONALIZING FURTHER THE STRUCTURE AND ADMINISTRATION OF THE DOCUMENTARY STAMP TAX, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

SECTION 1. Scope. - Pursuant to Section 4 and 245 of the National Internal Revenue Code (NIRC), as amended, in relation to *Section 23* of Republic Act No. 7660, these regulations are hereby promulgated to implement the provisions of said Act which rationalizes further the structure and administration of the documentary stamp tax, amending for the purpose *Section 173, 174, 175, 176, 178, 179, 180, 184, 185, 186, 187, 188 189, 190, 191, 192, 193, 194, 195, 196, 197*, Title VII of the National Internal Revenue Code (NIRC).

SECTION 2. Persons Liable. - Upon documents, instruments, loan agreements, and papers and upon acceptances, assignments, sales and transfers of the obligation, right or property incident thereto, documentary stamp taxes for and in respect of the transaction so had or accomplished shall be paid as hereinafter prescribed by the person making, signing, issuing, accepting, or transferring the same, wherever the document is made, signed, issued, accepted, or transferred when the obligation or right arises from Philippine sources or the property is situated in the Philippines, and at the same time such act is done or transaction had: Provided, That whenever one party to the taxable document enjoys exemption from the tax herein imposed, the other party who is not exempt shall be the directly liable for the tax.

SECTION 3. Definition of Terms. - For purposes of these Regulations, the following terms shall mean:

(a) "Act" - refers to Republic Act No. 7660.

(b) "Loan agreement" - refers to a contract in writing where one of the parties delivers to another money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid. The term shall include credit facilities, which may be evidenced by credit memo, advice or drawings.

The terms "Loan Agreement" under Section 180 and "Mortgage" under Section 195, both of the Tax Code, as amended, generally refer to distinct and separate instruments. A loan agreement shall be taxed under *Section 180*, while a deed of mortgage shall be taxed under *Section 195*.

(c) "Securities" - include bonds, debentures, notes, evidence of indebtedness, share in a company, pre-organization certificates or subscriptions, investment,

contracts, certificates of interest or participation in a profit sharing agreement, collateral trust certificates, equipment trust certificates (including conditional sale contracts or similar interests or instruments serving the same purposes) voting trust certificates, certificates of deposit for a security or fractional undivided interest in oil, gas or other mineral rights or in general, interests or instruments commonly considered to be "securities," or certificates of interests or participation in, temporary or *interim* certificates for, receipts for, guarantees of or warrants or rights to subscribe to or buy or sell any of the foregoing; or commercial papers evidencing indebtedness of any person, financial or non-financial entity, irrespective of maturity issued, endorsed, sold, transferred or in any manner conveyed to another, with or without recourse, such as promissory notes, repurchase agreements, certificates of assignments, certificates of participation, trust certificate or similar instruments; or proprietary or non-proprietary membership certificates, commodity future contracts, transferable stock options, pre-need plans, pension plans, life plans, joint venture contracts, and similar contracts and investments where there is no tangible return on investments plus profits but an appreciation of capital as well as enjoyment of particular privileges and services. (Revised Securities Act.)

(d) "When the obligation or right arises from Philippines sources" means the obligation, i.e., the juridical necessity to give, to do or not to do, or the right arises from sources within the Philippines.

(e) "The property is situated in the Philippines" - means the property real or personal, is located in the Philippines.

(f) "Promissory note" - refers to an instrument, whether negotiable or non-negotiable, whereby the maker agrees (promises) to pay a sum certain in money or its equivalent at a definite time.

(g) "Lotto" - refers to a numbers game authorized by law which includes, but is not limited to, lottery, drawing, sweepstakes or sweep draft lottery, raffle, pick six, pick four, tombola, number lottery, numbers pool, numbers game or policy, Chinese lottery, interest lottery, Dutch or class lottery, tontine, grab bag or barrel or box.

(h) "Beginning 1996" - means beginning January 1, 1996.

(i) " At the same time such act is done or transaction had" - means on the same date the document was executed, i.e., made, signed, issued, accepted or transferred.

(j) "Government instruments or securities" - refer to bonds, debentures, notes, certificates, or other evidence of indebtedness issued by the government or by any of its political subdivisions.

SECTION 4. *Time and Manner of Payment of Documentary Stamp Tax.* - The documentary stamp tax shall be paid by the purchase and affixture of the documentary stamp(s) to the document or instrument taxed or to such other papers as may be indicated by law or regulations as the proper recipients of the stamp and by the subsequent cancellation of the documentary stamp which may be done by writing, stamping or perforating the date of the cancellation across the face of each stamp in such a manner that part of the writing, impression, or perforation shall be on the stamp itself and partly on the document to which the stamp is attached.

If, however, the amount of the documentary stamp tax due on the taxable document is ten pesos (P10.00) or more, the documentary stamp tax shall be paid by the taxpayer at the time the act is done or transaction had, and instead of affixing actual documentary stamp on the face of the taxable document, the information shown on the evidence of payment of the documentary stamp tax due on the document, that is, the official receipt number of the evidence of payment, date of payment, amount paid, and the name of the payor, shall be written on the face of the document or on any suitable space in the document.

SECTION 5. Stamp Tax on Issuance of Certificates of Stock. - A documentary stamp tax shall be imposed only on fully paid shares of stocks at two pesos (P2.00) on each two hundred pesos, or fractional part thereof, of the par value of the certificate of stock. In the case of original issuance of stock without par value, the tax base shall be the actual consideration received by the association, company, or corporation of the issuance of such stock, and in the case of stock dividends on the actual value represented by each share.

The documentary stamp tax is imposed on the privilege of issuing shares of stock; it accrues at the time the shares are issued. Therefore, the delivery of the certificates of stock to stockholders is not essential for the documentary stamp tax to attach.

SECTION 6. Stamp Tax on all Loan Agreements. - All loan agreements, whether made or signed in the Philippines, or abroad when the obligation or right arises from Philippine sources or the property or object of the contract is located or used in the Philippines shall be subject to the documentary stamp tax of thirty centavos (P0.30) on each two hundred pesos, or fractional part thereof, of the face value of any such agreements, pursuant to Section 180 in relation to Section 173 of the Tax Code.

In cases where no formal loan agreements or promissory notes have been executed to cover credit facilities, the documentary stamp tax shall be based on the amount of drawings or availment of the facilities, which may be evidenced by credit/debit memo, advice or drawings by any form of check or withdrawal slip, under *Section 180* of the Tax Code, as amended.

SECTION 7. Loan Secured by a Promissory Note. - In cases where a loan agreement and a promissory note are simultaneously issued and executed, the loan having been secured by the promissory note, only one documentary stamp tax shall be imposed on either loan agreement or promissory note, whichever will yield a higher tax.

SECTION 8. Loan Agreements/Promissory Notes Secured by a Pledged/Mortgage. - Where only one instrument was prepared, made, signed and executed to cover a loan agreement/promissory note, pledge/mortgage, the documentary stamp tax prescribed in Section 195 of the Tax Code, as amended, shall be paid and computed on the full amount of the loan or credit granted. In this regard, the instrument shall be treated as covering only one taxable transaction, subject to the higher documentary stamp tax.

SECTION 9. Purchase on Installment Basis. - Loan agreements or promissory notes the aggregate of which does not exceed two hundred fifty thousand (P250,000.00) pesos executed by an individual for his purchase, on installment, of a

house, lot, motor vehicle, appliance or furniture, for his personal use or that of his family and not for business, resale, barter or hire, shall be exempt from the payment of the documentary stamp tax imposed under *Section 180* of the Tax Code, as amended.

For this purpose, where several promissory notes have been executed to secure a loan agreement or where such promissory notes pertain to the same object, the value shall be aggregated and the promissory notes shall be taken as one.

Where the purchase on installment exceeds two hundred fifty thousand pesos, the whole purchase price shall be subject to the documentary stamp tax prescribed under *Section 180* of the Tax Code, as amended.

SECTION 10. Government Instruments and Securities. - Instruments and securities issued by the government or any of its instrumentalities are subject to the documentary stamp tax of thirty centavos (P0.30) on each two hundred pesos, or fractional part thereof, of the face value of any such securities of instruments.

SECTION 11. Rates of Documentary Stamp Taxes under Sections 114, 175, 176, 178, 179, 180, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, and 197, Title VII of the National Internal Revenue Code, as amended by Republic Act No. 7660.

SECTION 174. Stamp tax on bonds, debentures, and certificates of indebtedness. - On all bonds, debentures, and certificates of indebtedness issued by any association, company, or corporation, there shall be collected a documentary stamp tax of one peso and fifty centavos (P1.50) on each two hundred pesos, or fractional part thereof, of the face value of such documents.

SECTION 175. Stamp tax on original issue of certificates of stock. - On every original issue, whether on organization, reorganization or for any lawful purpose, of certificates of stock by any association, company, or corporations, there shall be collected a documentary stamp tax of Two Pesos (P2.00) on each two hundred pesos, or fractional part thereof, of the par value of such certificates: Provided, That in the case of the original issue of stock without par value the amount of the documentary stamp tax herein prescribed shall be based upon the actual consideration received by the association, company, or corporation for the issuance of such stock, and in the case of stock dividends on the actual value represented by each share.

SECTION 176. Stamp tax on sales, agreements to sell, memoranda of sales, deliveries or transfer of due-bills, certificates of obligation, or shares of certificates of stock. - On all sales of agreements to sell, or memoranda of sales, or deliveries, or transfer of due-bills, certificates of obligation, or shares or certificates of stock in any association, company, or corporation, or transfer of such securities by assignment in blank, or by delivery, or by any paper or agreement, or memorandum or holder in any manner to the benefit of such due-bills, certificates of obligation or stock, or to secure the future payment of money, or for the future transfer of any due-bill, certificates of obligation or stock, there shall be collected a documentary stamp tax of One peso (P1.00) on each two hundred pesos, or fractional part thereof, of the par value of such due-bill, certificates of obligation or stock: Provided, That only one tax shall be collected on each sale or transfer of stock or