

**[ BIR REVENUE REGULATIONS NO. 15-2013,  
September 20, 2013 ]**

**REVENUE REGULATIONS IMPLEMENTING REPUBLIC ACT NO. 10378 ENTITLED "AN ACT RECOGNIZING THE PRINCIPLE OF RECIPROCITY AS BASIS FOR THE GRANT OF INCOME TAX EXEMPTIONS TO INTERNATIONAL CARRIERS AND RATIONALIZING OTHER TAXES IMPOSED THEREON BY AMENDING SECTIONS 28(A)(3)(A), 109, 118 AND 236 OF THE NATIONAL INTERNAL REVENUE CODE (NIRC), AS AMENDED, AND FOR OTHER PURPOSES"**

**SECTION 1. BACKGROUND.** – On March 7, 2013, Republic Act (RA) No. 10378 entitled "*An Act Recognizing the Principle of Reciprocity as Basis for the Grant of Income Tax Exemptions to International carriers and Rationalizing other Taxes Imposed thereon by amending Sections 28(A)(3)(a), 109, 118 and 236 of the National Internal Revenue Code (NIRC), as amended, and for other Purposes*" was signed into law. Pursuant thereto, international carriers may now avail of preferential rates or exemption from income tax on their gross revenues derived from the carriage of persons and their excess baggage based on the principle of reciprocity or an applicable tax treaty or international agreement to which the Philippines is a signatory. The law also provided for the exemption of international carriers from Value-Added Tax (VAT) and Common Carrier's Tax (Percentage Tax on International Carriers) on their carriage of passengers. It limits the imposition of Common Carrier's Tax (Percentage Tax on International Carriers) to the carriage of cargoes.

The policy behind the rationalization of taxes on international carriers is to improve the competitiveness of the Philippine Tourism Industry by encouraging more international carriers to maintain flight and shipping operations in the country and by the eventual reduction of international plane and ship fares. These are intended to facilitate the movement of goods and services and to attract more foreign tourists and investments.

**SECTION 2. SCOPE.** – Pursuant to Section 244 of the National Internal Revenue Code of 1997 (NIRC), as amended, and Section 5 of RA No. 10378, these Regulations are hereby promulgated to implement RA No. 10378, amending Sections 28(A)(3)(a), 109, 118 and 236 of the NIRC.

**SECTION 3. DEFINITION OF TERMS. –**

- 3.1 *Common Carrier* – refers to individuals, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public and shall include transportation contractors.

- 3.2 *Philippine Carrier* – refers to a Philippine Air Carrier and/or Philippine Sea Carrier, as herein defined.
- 3.3 *Philippine Air Carrier* – refers to an airline corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international air transportation of goods, passengers, or both.
- 3.4 *Philippine Sea Carrier* – refers to a shipping corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international sea transportation of goods, passengers, or both.
- 3.5 *International Common Carrier* – refers to an International Air Carrier or International Sea Carrier, as herein defined.
- 3.6 *Home Country* – refers to the country under whose laws the international carrier was duly organized or incorporated.
- 3.7 *International Air Carrier* – refers to a foreign airline corporation doing business in the Philippines having been granted landing rights in any Philippine port to perform international air transportation services/activities or flight operations anywhere in the world. On-line carriers refer to international air carriers having or maintaining flight operations to and from the Philippines. Off-line carriers refer to international air carriers having no flight operations to and from the Philippines.
- 3.8 *International Sea Carrier* – refers to a foreign shipping corporation doing business in the Philippines, having touched or intention of touching any Philippine port to perform international sea transportation services/activities from the Philippines to anywhere in the world and vice versa, in the case of on-line carrier, or having maintained business establishment, agent or representative office in the Philippines for the sale of owned tickets/ passage documents or tickets/passage documents of other shipping companies, which shipping companies operate without touching any Philippine port, in the case of off-line carrier.
- 3.9 *On-line flights or voyages* – refer to flight or voyage operations carried out or maintained by an international carrier between ports or points in the territorial jurisdiction of the Philippines and any port or point outside the Philippines.
- 3.10 *Off-line flights or voyages* – refer to flight or voyage operations carried out or maintained by an international carrier between ports or points outside the territorial jurisdiction of the Philippines, without touching a port or point situated in the Philippines, except when in distress or due to *force majeure*.
- 3.11 *Chartered flights or voyages* – refer to flight or voyage operations

which include operations between ports or points situated in the Philippines and ports and points outside the Philippines, which include block charter, placed under the custody and control of a charterer by a contract/charter for rent or hire relating to a particular airplane/vessel.

3.12 "*Originating from the Philippines*" – shall include the following:

- A) Where passengers, their excess baggage, cargo and/or mail originally commence their flight or voyage from any Philippine port to any other port or point outside the Philippines;
- B) Chartered flights or voyages of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any foreign port and whose stay in the Philippines is for more than forty-eight (48) hours prior to embarkation save in cases where the flight of the airplane belonging to the same airline company or the voyage of the vessel belonging to the same international sea carrier failed to depart within forty-eight (48) hours by reason of *force majeure*;
- C) Chartered flights of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any Philippine port to any foreign port; and
- D) Where a passenger, his excess baggage, cargo and/or mail originally commencing his flight or voyage from a foreign port alights or is discharged in any Philippine port and thereafter boards or is loaded on another airplane owned by the same airline company or vessel owned by the same international sea carrier, the flight or voyage from the Philippines to any foreign port shall not be considered originating from the Philippines, unless the time intervening between arrival and departure of said passenger, his excess baggage, cargo and/or mail from the Philippines exceeds forty-eight (48) hours, except, however, when the failure to depart within forty-eight (48) hours is due to reasons beyond his control, such as, when the only next available flight or voyage leaves beyond forty-eight (48) hours or by *force majeure*. *Provided, however,* that if the second aircraft belongs to a different airline company, or the second vessel belongs to a different international sea carrier, the flight or voyage from the Philippines to any foreign port shall be considered originating from the Philippines regardless of the intervening period between the arrival and departure from the Philippines by said passenger, his excess baggage, cargo and/or mail.

3.13 "*Continuous and Uninterrupted Flight or Voyage*" – refers to a flight or voyage in the carrier of the same company from the moment a passenger, excess baggage, cargo, and/or mail is lifted from the Philippines up to the point of final destination of the passenger, excess baggage, cargo and/or mail. The flight or voyage is not considered continuous and uninterrupted if transshipment of passenger, excess baggage, cargo and/or mail takes place at any port outside the Philippines on another aircraft or vessel belonging to a different company.

- 3.14 "*Place of Final Destination*" – refers to the place of final disembarkation designated or agreed upon by the parties in a contract of air or sea transportation where the passengers, their excess baggage, cargo and/or mail are to be transported and unloaded by the contracting company.
- 3.15 "*Transient Passenger*" – refers to a passenger who originated from outside of the Philippines towards a final destination also outside of the Philippines but stops in the Philippines for a period of less than forty eight (48) hours, or even more than forty-eight (48) hours, if the delay is due to *force majeure* or reasons beyond his control, wherein in both cases the passenger boarded an airplane or vessel of the same company bound to the place of final destination.
- 3.16 "*Non-revenue passengers*" – refers to the non-revenue passengers as defined under *Resolution No. 788 of the International Air Transport Association regarding Free and Reduced Fare or Rate Transportation and any other Free/Reduced Rate Mileage Programs Administered by individual International Air Carriers*.
- 3.17 "*Adult passenger*" – refers to a passenger who has attained his twelfth (12<sup>th</sup>) birthday.
- 3.18 "*Children*" – refers to passengers who have attained their second (2<sup>nd</sup>) but not their twelfth (12<sup>th</sup>) birthday.
- 3.19 "*Infant*" – refers to a passenger who has not attained his second (2<sup>nd</sup>) birthday.
- 3.20 "*Baggage*" – refers to such articles, effects and other personal property of a passenger as are necessary or appropriate for wear, use, comfort or convenience in connection with his trip.
- 3.21 "*Excess baggage*" – refers to that part of the baggage which is in excess of that baggage which may be carried free of charge.
- 3.22 "*Refund*" – refers to the repayment to the purchaser of all or a portion of the fare, rate or charge for unused carriage or service.
- 3.23 *Tax Treaties* – refers to the Double Taxation Conventions or Double Taxation Agreements entered into by and between the Philippines and other Contracting States or jurisdictions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

## **SECTION 4. INCOME TAX. –**

### **4.1) Income Tax Imposed on International Carriers with Flights or Voyages Originating from Philippine Ports. –** An international carrier having flights or

voyages originating from any port or point in the Philippines, irrespective of the place where passage documents are sold or issued, is subject to the Gross Philippine Billings Tax of two and one-half percent (2-1/2%) imposed under Section 28(A)(3) (a) and (b) of the NIRC, as amended, unless it is subject to a preferential rate or exemption on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of 'reciprocity.'

**A) Determination of Gross Philippine Billings of International Air Carriers.** – In computing for "Gross Philippine Billings" of international air carriers, there shall be included the total amount of gross revenue derived from passage of persons, excess baggage, cargo and/or mail, originating from the Philippines in a continuous and uninterrupted flight, irrespective of the place of sale or issue and the place of payment of the passage documents.

The gross revenue for passengers whose tickets are sold in the Philippines shall be the actual amount derived for transportation services, for a first class, business class or economy class passage, as the case may be, on its continuous and uninterrupted flight from any port or point in the Philippines to its final destination in any port or point of a foreign country, as reflected in the remittance area of the tax coupon forming an integral part of the plane ticket. For this purpose, the Gross Philippine Billings shall be determined by computing the monthly average net fare of all the tax coupons of plane tickets issued for the month per point of final destination, per class of passage (i.e., first class, business class, or economy class) and per classification of passenger (i.e., adult, child or infant), and multiplied by the corresponding total number of passengers flown for the month as declared in the flight manifest.

For tickets sold outside the Philippines, the gross revenue for passengers for first class, business class or economy class passage, as the case may be, on a continuous and uninterrupted flight from any port or point in the Philippines to final destination in any port or point of a foreign country shall be determined using the locally available net fares applicable to such flight taking into consideration the seasonal fare rate established at the time of the flight, the class of passage (whether first class, business class, economy class or non-revenue), the classification of passenger (whether adult, child or infant), the date of embarkation, and the place of final destination. Correspondingly, the Gross Philippine Billings for tickets sold outside the Philippines shall be determined in the manner as provided in the preceding paragraph.

Passage documents or tickets revalidated, exchanged and/or endorsed to another on-line international airline shall be included in the taxable base of the carrying airline and shall be subject to Gross Philippine Billings tax if the passenger is lifted/boarded on an aircraft from any port or point in the Philippines towards a foreign destination.

The gross revenue on excess baggage which originated from any port or point in the Philippines and destined to any part of a foreign country shall be computed based on the actual revenue derived as appearing on the official receipt or any similar document for the said transaction.