

**[BIR REVENUE MEMORANDUM CIRCULAR NO.
59 - 2008, August 23, 2008]**

**AMENDING CERTAIN PORTIONS OF REVENUE MEMORANDUM
CIRCULAR NO. 30-2008 ON THE SUBJECT OF THE TAXABILITY
OF INSURANCE COMPANIES FOR MINIMUM CORPORATE
INCOME TAX (MCIT), BUSINESS TAX AND DOCUMENTARY
STAMP TAX PURPOSES**

Based on recent dialogues and consultations which the Agency had with the representatives of the insurance industry, this Circular is being issued to amend Revenue Memorandum Circular No. 30-2008 (RMC 30-2008) with respect to the portions thereof which the industry feels need further refinement and clarification. This amendment is introduced with the objective of clarifying the taxability of both the life and the non- life insurance industries as elucidated in the said Circular with the purpose of efficiently administering the provisions therein.

(1) On the portion of RMC 30-2008 relating to the determination of the Minimum Corporate Income Tax for life and non- life insurance companies, the same is hereby amended to read as follows:

"Determination of the Minimum Corporate Income Tax For Life and Non-Life Insurance Companies. - xxx xxx xxx

" Their costs of services or direct cost and identifiable direct revenue-related deductions shall refer to those incurred costs which are exclusively related or otherwise considered indispensable to the creation of the revenue from their business activity as an insurance company, including the generation of investment income not subject to final taxes, and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly engaged in the following activities:

- a. underwriting;*
- b. claims and benefits;*
- c. actuary;*
- d. policy owner services, such as but limited to the following:*
 - i. policy changes and amendments;*
 - ii. policy endorsements/assignments;*
 - iii. policy benefits and features;*

- iv. changes in forfeiture options; and
- v. policy reinstatements

- 02. Commissions on direct writings/reinsurance;
- 03. Cost of facilities directly utilized in providing the service such as depreciation or rental of equipment used and cost of supplies;
- 04. Inspection and medical fees
- 05. Claims, losses, maturities and benefits net of reinsurance recoveries;
- 06. Additions required by law to reserve fund; and
- 07. Reinsurance ceded."

Investment expenses should not form part of the direct cost nor a deductible expense in the determination of the net taxable income. However, investment expenses relating to investment income that has not been subjected to final tax, although do not form part of the direct cost, shall be allowed as deduction to arrive at the taxable income.

(2) On the portion of RMC 30-2008 relating to the taxability of the various business activities of life insurance companies for business tax and documentary stamp tax, the same is hereby amended to read as follows:

"Taxability of the Various Business Activities of Life Insurance Company for Business Tax and Documentary Stamp Tax. -

"(a) Business Tax. - While it may be said xxx xxx xxx "xxx xxx xxx "(1) Direct Writings/Premiums - Generally for the premiums received by a life insurance company in undertaking its insurance activities, the same are subject to premium tax at the rate of five percent (5%) on its direct writings/ premiums pursuant to Section 123 of the Tax Code, as amended, to wit:

'SEC. 123. Tax on Life Insurance Premiums. — There shall be collected from every person, company or corporation (except purely cooperative companies or associations) doing life insurance business of any sort in the Philip-Pines a tax of five percent (5%) of the total premium collected, whether such Premiums are paid in money, notes, credits or any substitute for money; but Premiums refunded within six (6) months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in we taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax, nor upon premiums collected or received by any branch of a domestic corporation, firm or association doing business outside the Philippines on account of any life insurance of the insured who is a nonresi-dent, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance, if the insured, in case of personal insurance, resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts (as defined in Section 232(2) of Presidential Decree No. 612), in excess of the amounts necessary to insure the lives of the

variable contract workers.

"xxxxxxxxxx"

It is to be emphasized, however, that premium on Health and Accident Insurance, whether received by a life or non-life insurance company, shall be considered as premium on life insurance and, therefore, likewise subject to Pro-mium Tax and not Value-added Tax.

"(2) Management Fees, Rental Income, or Other Income/Fees -Management fees, rental income, or income earned by the life insurance company from services which can be pursued independently of the insurance business activity, are thus not subject to the 5% premium tax imposed under Section 123 ' above but, rather, the same are treated as income for services that are subject to the imposition of VAT pursuant to Section 108 of the Tax Code, as amended, or to the percentage tax imposed under Section 116 of the same Tax Code, as the case may be.

" Nevertheless, re-issuance fees, reinstatement fees, renewal fees as well as penalties paid to the life insurance company are likewise considered as income of the life insurance company for services rendered to customers and therefore subject to VAT under Sec. 108 or Percentage Tax under Sec. 116, whichever is applicable.

"(3) Investment Income-"xxx xxx xxx

"(3.b) Investment Income Realized from the Investment of Funds Obtained from Others. - The income earned by the life insurance company whereby it uses the funds solicited and pooled from its policy holders to invest in various marketable securities, instruments, other financial products and in real estate, which funds are recognized as liabilities by the life insurance company and which can be withdrawn by the policy holders anytime is considered an income earned from performing a quasi-banking activities or similar banking activities, thus, subject to the gross receipts tax imposed under Sec. 121 of the Tax Code , as amended.

"(3.c) Manner of Apportionment to Determine Exempt Investment Income and Investment Income Subject to Gross Receipts Tax - xxx xxx xxx

For that portion of investment income whereby the source of the funds used was solicited from the policy holders for purposes other than the payment of the current premiums due to the life insurance company and where such funds solicited are treated by the life insurance company as liabilities, such income

Is considered to have been earned from performing quasi-banking activities or similar banking activities and therefore, subject to the imposition of gross receipt tax pursuant to Sec. 121 of the Tax Code, as amended.

"XXX XXX XXX .

"(b) Documentary Stamp Tax. - With respect to life insurance policies issued by the life insurance company, the same is subject to documentary stamp tax pursuant to Section 183 of the Tax Code, as amended, as quoted hereunder:

'SEC. 183. Stamp Tax on Life Insurance Policies. — On all policies of insurance or other instruments by whatever name the same may be called, whereby any insurance shall be made or renewed upon any life or lives, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Two hundred pesos (P200), or fractional part thereof, of the amount of premium collected.

"For certificates issued, documentary stamp tax is imposed as follows:

'SEC. 188. Stamp Tax on Certificates. — On each certificate of damage or otherwise, and on every other certificate or document issued by any customs officer, marine surveyor, or other person acting as such, and on each certificate issued by a notary public, and on each certificate of any description required by law or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact, and not otherwise specified herein, there shall be collected a documentary stamp tax of Fifteen pesos (P15.00).

"For group insurance policies issued, the premium collected therefrom shall be subject to Section 183 above. For the individual certificates issued to each and every employee covered by the group insurance policy, the issuance of such certificate shall be subject to Section 188 above. The imposition of said documentary stamp tax on the issuance of certificates pursuant to Section 188 above shall strictly be enjoined once this Circular becomes effective.

"However with regard to health and accident insurance policy issued, the basis for the payment of documentary stamp tax shall be Sec. 183 above, inasmuch as the same partakes the nature of a life insurance contract"

Taxability of the Other Financial Services/Products Sold by the Life Insurance Company in Addition to the Life Insurance Policy Solicited. - Xxx xxx xxx

Xxx xxx xxx

Variable Unit Link (VUL). - Among the salient features of this financial service/product are as follows:

Xxx xxx xxx

The tax consequences insofar as this above financial product/service is concerned are as follows:

Xxx xxx xxx

Xxx xxx xxx

The certificates issued to the policyholder evidencing his contribution to the VUL fund which partake the nature of deeds of trust shall *not* be subject to the imposition of DST prescribed by Sec. 195 of the Tax Code, as amended, considerincj that the premiums on variable contracts have already been sub jected to DST under Sec. 183.

Xxx xxx xxx

Premium Deposit Fund (PDF). - Xxx xxx xxx

(3) On the portion of RMC 30-2008 dealing with the taxability of-non- life insurance companies for business and documentary stamp tax purposes, the same is hereby amended to read as follows:

" Taxability of the Non-Life Insurance Company for Business Tax and Documentary Stamp Tax. -

"(a) Business Tax. - Pursuant to Section 108 of the Tax Code, as amended, the "gross receipts" of non-life insurance companies (except their crop insurances) is subject to the imposition of VAT which includes the total premiums collected whether such premiums are paid in money, notes, credits or any substitute for money

"Premiums received from a health and accident insurance contract underwritten by the non-life insurance companies, inasmuch as the same partakes the nature of a life insurance policy, is subject to the payment of the premium tax imposed by Sec. 123 of the Tax Code, as amended.

"The following xxx xxx xxx

"Gross Receipts" does not include xxx xxx xxx

"(b) Documentary Stamp Tax. - With respect to insurance policies other than health and accident insurance policies issued by the non-life insurance company, the same are subject to documentary stamp taxes pursuant to Section 184 of the Tax Code, as amended, as quoted hereunder, regardless of the fact that policies may have become ineffective due to non-payment of the corresponding premiums:

SEC. 184. Stamp Tax on Policies of Insurance Upon Property. — On all policies of insurance or other instruments by whatever name the same may be called, by which insurance shall be made or renewed upon property of any description, including rents or profits, against peril by sea or on inland waters, or by fire or lightning, there shall be collected a documentary stamp tax of Fifty centavos (P0.50) on each Four pesos (P4.00), or fractional part thereof, of the amount of premium charged: Provided , however, That no documentary stamp tax shall be collected on reinsurance contracts or on any instrument by

which cession or acceptance of insurance risks under any reinsurance agreement is effected or recorded.

"However with regard to health and accident insurance policies issued by non life insurance companies, the basis for the payment of documentary stamp tax as that imposed on life insurance companies which is Sec. Tax Code, as amended.

"For certificates issued, documentary stamp tax is imposed as follows:

'SEC. 188. Stamp Tax on Certificates. — On each certificate of damage or otherwise, and on every other certificate or document issued by any customs officer; marine surveyor, or other person acting as such, and on each certificate issued by a notary public, and on each certificate of any description required by law or by rules or regulations of a public office, or which is issued for the purpose of giving information, or establishing proof of a fact, and not otherwise specified herein, there shall be collected a documentary stamp tax of Fifteen pesos (P15.00).

"Likewise, Certificate of Cover (COC) issued pertinent to motor vehicle insurances shall be subject to the documentary stamp tax imposed under Section 188 above. The imposition of the documentary stamp tax on the issuance of Certificates pursuant to Sec. 188 shall strictly be complied with upon the effectivity of this Circular."

All revenue rulings and issuances inconsistent herewith are hereby revoked, amended, or modified accordingly.

All internal revenue officers are hereby enjoined to give this Circular as wide a public ity as possible.

Adopted: 23 Aug. 2008

(SGD.) LILIAN B. HEFTI
Commissioner of Internal Revenue



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