

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

November 10, 2011

REVENUE MEMORANDUM CIRCULAR NO. 55-2011

SUBJECT : Clarification on when to reckon the redemption period on foreclosed property pursuant to Revenue Memorandum Circular No. 58-2008

To : All Internal Revenue Officials, Employees and Others Concerned

For the information and guidance of all concerned this Circular is being issued to clarify the following provisions of Revenue Memorandum Circular No. 58-2008:

"For purposes of reckoning the one-year redemption period, in the case of individual mortgagors, or the three-month redemption period for juridical persons/mortgagors, the same shall be reckoned from the date of the confirmation of the auction sale which is the date when the certificate of sale is issued."

There is the decision of the Supreme Court in the case of Santos vs. Register of Deeds of Manila, L-26752, March 19, 1971, which provides, viz.:

"This issue has long been settled in favor of the ruling made in the contested resolution. As early as June 30, 1959, We have held that the period of redemption "begins to run not from the date of sale but from the time of registration of the sale in the Office of the Register of Deeds." This view, expressed in Garcia v. Ocampo, et al., was reiterated in Agbulos v. Alberto. Although these cases referred to execution sales, the rule therein laid down was applied to foreclosure cases in Salazar, et al. v. Meneses, et al., Reyes v. Noblejas, et al., Rosario, et al. v. Tayug Rural Bank, Inc., Campillo v. Philippine National Bank and Reyes v. Manas, et al. In Reyes v. Noblejas, et al." (underscoring and emphasis supplied)

This was reiterated in the recent case of Eligio P. Mallari vs. Government Service Insurance System and the Provincial Sheriff of Pampanga, G.R. No. 157659, January 25, 2010. The Supreme Court ruled:

"In this regard, we clarify that the redemption period envisioned under Act 3135 is reckoned from the date of the registration of the sale, not from and after the date of the sale, as the text of Act 3135 shows. Although the original

Rules of Court (effective on July 1, 1940) incorporated Section 464 to Section 466 of the Code of Civil Procedure as its Section 25 (Section 464); Section 26 (Section 465); and Section 27 (Section 466) of Rule 39, with Section 27 still expressly reckoning the redemption period to be "at any time within twelve months after the sale;" and although the Revised Rules of Court (effective on January 1, 1964) continued to provide in Section 30 of Rule 39 that the redemption be made from the purchaser "at any time within twelve (12) months after the sale," the 12-month period of redemption came to be held as beginning "to run not from the date of the sale but from the time of registration of the sale in the Office of the Register of Deeds." This construction was due to the fact that the sheriff's sale of registered (and unregistered) lands did not take effect as a conveyance, or did not bind the land, until the sale was registered in the Register of Deeds." (underscoring and emphasis supplied)

Thus, for purposes of reckoning the one-year redemption period on the foreclosed asset of **natural persons** 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, the same shall be reckoned from the date of registration of the sale in the Office of the Register of Deeds.

As regards the right of redemption of **juridical persons in an extrajudicial foreclosure**, Section 47 of Republic Act 8791 (The General Banking Law of 2000) provides that its right of redemption shall be 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. It shall be reckoned from the date of approval by the executive judge as provided in the recent case of Commissioner of Internal Revenue vs. United Coconut Planters Bank, G.R. No. 179063 dated October 23, 2009 where the Supreme Court ruled:

"The CIR argues that he has the more reasonable position: the redemption period should be reckoned from the date of the auction sale for, otherwise, the taxing authority would be left at the mercy of the executive judge who may unnecessarily delay the approval of the certificate of sale and thus prevent the early payment of taxes.

But the Supreme Court had occasion under its resolution in Administrative Matter 99-10-05-0 8 to rule that the certificate of sale shall issue only upon approval of the executive judge who must, in the interest of fairness, first determine that the requirements for extrajudicial foreclosures have been strictly followed. For instance, in United Coconut Planters Bank v. Yap, this Court sustained a judge's resolution requiring payment of notarial commission as a condition for the issuance of the certificate of sale to the highest bidder.

Here, the executive judge approved the issuance of the certificate of sale to UCPB on March 1, 2002. Consequently, the three-month redemption period

ended only on June 1, 2002. Only on this date then did the deadline for payment of CWT and DST on the extrajudicial foreclosure sale become due.

Under Section 2.58 of Revenue Regulation 2-98, the CWT return and payment become due within 10 days after the end of each month, except for taxes withheld for the month of December of each year, which shall be filed on or before January 15 of the following year. On the other hand, under Section 5 of Revenue Regulation 06-01, the DST return and payment become due within five days after the close of the month when the taxable document was made, signed, accepted, or transferred.” (underscoring and emphasis supplied)

Any ruling inconsistent herewith is deemed revoked, amended or modified accordingly.

(Original Signed)
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Commissioner of Internal Revenue