

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE

May 2, 2013

**REVENUE MEMORANDUM CIRCULAR NO. 40-2013**

**SUBJECT:** Circularizing the full text of Republic Act 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."

**TO:** All Internal Revenue Officers and Others Concerned

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For the information and guidance of all internal revenue officials, employees and others concerned, quoted hereunder is the full text of RA 10378 passed into law on March 7, 2013. It was published on March 13, 2013 in Manila Bulletin and Philippine Star and took effect on March 29, 2013.

**"REPUBLIC ACT NO. 10378**

**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**

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

**Section 1.** Section 28(A)(3)(a) of Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 28. *Rates of Income Tax on Foreign Corporations.* —

"(A) *Tax on Resident Foreign Corporations.* —

"(1) xxx

"(2) xxx

"(3). *International Carrier.* — An international carrier doing business in the Philippines shall pay a tax of two and one-half percent (2 1/2%) on its 'Gross Philippine Billings' as defined hereunder:

"(a) *International Air Carrier.* — 'Gross Philippine Billings' refers to the amount of gross revenue derived from carriage of persons, excess baggage, cargo, and 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 ticket or passage document: *Provided*, That tickets revalidated, exchanged and/or indorsed to another international airline

form part of the Gross Philippine Billings if the passenger boards a plane in a port or point in the Philippines: *Provided, further,* That for a flight which originates from the Philippines, but transshipment of passenger takes place at any part outside the Philippines on another airline, only the aliquot portion of the cost of the ticket corresponding to the leg flown from the Philippines to the point of transshipment shall form part of Gross Philippine Billings.

"(b) *International Shipping.* — 'Gross Philippine Billings' means gross revenue whether for passenger, cargo or mail originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

*Provided,* That international carriers doing business in the Philippines may avail of a preferential rate or exemption from the tax herein imposed on their gross revenue derived from the carriage of persons and their excess baggage on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of reciprocity such that an international carrier, whose home country grants income tax exemption to Philippine carriers, shall likewise be exempt from the tax imposed under this provision.

"x x x."

**Section 2.** Section 109 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

"SEC. 109. *Exempt Transactions.* - The following shall be exempt from the value-added tax:

"(A) xxx;

"xxx

"(S) Transport of passengers by international carriers;

"(T) Sale, importation or lease of passenger or cargo vessels and aircraft, including engine, equipment and spare parts thereof for domestic or international transport operations;

"(U) Importation of fuel, goods and supplies by persons engaged in international shipping or air transport operations;

"(V) Services of bank, non-bank financial intermediaries performing quasi-banking functions, and other non-bank financial intermediaries; and

"(W) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of One million five hundred thousand pesos (P1,500,000): *Provided,* That not later than January 31, 2009 and

every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the National Statistics-Office (NSO);

"x x x."

**Section 3.** Section 118 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

*"SEC. 118. Percentage Tax on International Carriers. —*

"(A) International air carriers doing business in the Philippines on their gross receipts derived from transport of cargo from the Philippines to another country shall pay a tax of three percent (3%) of their quarterly gross receipts.

"(B) International shipping carriers doing business in the Philippines on their gross receipts derived from transport of cargo from the Philippines to another country shall pay a tax equivalent to three percent (3%) of their quarterly gross receipts."

**Section 4.** Section 236 of the National Internal Revenue Code of 1997, as amended, is hereby further amended to read as follows:

*"SEC. 236. Registration Requirements. —*

*"(A) Requirements. — x x x*

"xxx

*"(G) Persons Required to Register for Value-Added Tax. —*

"(1) Any person who, in the course of trade or business, sells, barters or exchanges goods or properties, or engages in the sale or exchange of services, shall be liable to register for value-added tax if:

"(a) His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Section 109(A) to (V), have exceeded One million five hundred thousand pesos (P1,500,000); or

"(b) There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Section 109(A) to (V), will exceed One million five hundred thousand pesos (P1,500,000).

"x x x."

**Section 5. Implementing Rules and Regulations.** — The Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate not later than thirty (30) days upon the effectivity of this Act the necessary rules and regulations for its effective implementation. The Department of Finance (DOF), in coordination with the Department of

Foreign Affairs (DFA), shall oversee the exchange of notes between the Philippines and concerned countries for purposes of facilitating the availment of reciprocal exemptions intended under this Act.

**Section 6. Separability Clause.** — If any provision of this Act is subsequently declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

**Section 7. Repealing Clause.** — All laws, acts, presidential decrees, executive orders, issuances, presidential proclamations, rules and regulations or parts thereof which are contrary to and inconsistent with any provision of this Act are hereby repealed, amended or modified accordingly.

**Section 8. Effectivity.** — This Act shall take effect fifteen (15) days after its complete publication either in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,

(Sgd.) **JUAN PONCE ENRILE**  
President of the Senate

(Sgd.) **FELICIANO BELMONTE JR.**  
Speaker of the House of Representatives

This Act which is a consolidation of House Bill No. 6022 and Senate Bill, No. 3343 was finally passed by the House of Representatives and the Senate on January 23, 2013.

(Sgd.) **EMMA LIRIO-REYES**  
Secretary of Senate

(Sgd.) **MARILYN B. BARUA-YAP**  
Secretary General  
House of Representatives

**Approved: March 7, 2013**

(Sgd.) **BENIGNO S. AQUINO III**  
*President of the Philippines"*

All revenue officials and employees are enjoined to give this Circular as wide a publicity as possible.

(Original Signed)  
**KIM S. JACINTO-HENARES**  
**Commissioner of Internal Revenue**