

REVENUE MEMORANDUM CIRCULAR NO. 30-2008 issued on April 8, 2008 clarifies the taxability of insurance companies for Minimum Corporate Income Tax (MCIT), business tax and Documentary Stamp Tax purposes

For purposes of computing the gross income on the sale of services which shall be the basis of the 2% MCIT imposed under Section 27(E) and Section 28(A)(2) of the 1997 National Internal Revenue Code (Tax Code), as amended, of life and non-life insurance companies, their gross revenue shall include direct premium and reinsurance assumed (net of returns, cancellations); miscellaneous income; investment income not subject to final tax; released reserve; and all other items treated as gross income under Section 32 of the Tax Code, as amended.

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:

- a. Claims, losses, maturities and benefits net of reinsurance recoveries;
- b. Additions required by law to reserve fund; and
- c. Reinsurance ceded.

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.

Re-insurance fees, reinstatement fees, renewal fees as well as penalties paid to the life insurance company, which are incidental to or in connection with the insurance policy contracts issued, are considered akin to premiums, thus, such types of income are also covered by the provision in Section 123, subject to the five percent (5%) premium tax for the gross amount received on such fees and/or penalties.

Management fees, rental income, or any other income earned by the life insurance company from services which can be pursued independently of the insurance business activity are not subject to the five percent (5%) premium tax imposed under Section 123 but, rather, the same are treated as income for services that are subject to the imposition of Value-Added Tax (VAT) pursuant to Section 108 of the Tax Code, as amended, or to the Percentage Tax imposed under Section 116 of the same Code, as the case may be.

Income realized from investment activities utilizing the premiums earned by the life insurance company from its policyholders is considered merely a part of, incidental to and is necessary to its main business of contracting insurance services. Such investment income is considered exempt from the further imposition of business tax since the premiums, which have been the source of the funds invested had already been subjected to the imposition of the five percent (5%) premium tax.

The income earned by the life insurance company whereby it uses the funds solicited and pooled from its policyholders to invest in various marketable securities, instruments and other financial products, which funds are recognized as liabilities by the life insurance company and which can be withdrawn by the policyholders anytime, is considered as an income earned from performing a quasi-banking function, thus subject to the gross receipts tax imposed under Section 121 of the Tax Code, as amended.

Investment income that is exempt from the imposition of business tax only pertains to that portion of investment income where the source of the funds used in

the investment activities comes from the owned funds (i.e. premiums earned) of the life insurance company.

For that portion of investment income whereby the source of the funds used was solicited from the policyholders 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 function and, therefore, subject to the imposition of gross receipts tax pursuant to Section 121 of the Tax Code.

In order to determine which portion of the investment income earned for the month is exempt and which portion is taxable, the investment income earned for the month shall be allocated between the following:

- a. liability account balance pertinent the other funds solicited from the policyholders as of the end of such month; and
- b. the total premiums earned for the month.

With respect to life insurance policies issued by the life insurance company, the same is subject to Documentary Stamp Tax of Fifty centavos (₱ 0.50) on each Two hundred pesos (₱ 200), or fractional part thereof, of the amount of premium collected, pursuant to Section 183 of the Tax Code, as amended.

For certificates issued, a Documentary Stamp Tax of Fifteen pesos (₱ 15.00) is imposed 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 pursuant to Section 188 of the Tax Code, as amended

For group insurance policies issued, the premium collected shall be subject to Section 183 of the Tax Code. 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 of the Tax Code.

However, with regard to health and accident insurance coverage provided, there shall be collected a Documentary Stamp Tax (DST) of Fifty centavos (₱ 0.50) on each Four pesos (₱ 4.00) or fractional part thereof, of the premium charged on all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation.

In pursuing its main activity of proposing to undertake for a consideration to indemnify another against loss, damage or liability arising from an unknown or contingent event through the issuance of insurance policies upon payment by the insurer of the premium, it, at the same time, offers to its policyholder other financial services/products, which upon acceptance by the policyholder, are made as a rider, clause, warranty or endorsement attached to and formed part of the insurance policy

contract issued. Examples of such financial products/services are Variable Unit Link and Premium Deposit Fund.

The tax consequences of Variable Unit Link (VUL) are as follows:

- a. The premiums received on account of the life insurance solicited from the policyholder, being the main business activity of the life insurance company is, in addition to the Income Tax imposed under Title II of the Tax Code, as amended, subject to the business/ premium tax and DST;
- b. For the management fees earned by the life insurance company in managing the investment portfolio of the VUL fund, such management fees, in addition to the Income Tax imposed under Title II of the Tax Code, as amended, is subject to VAT pursuant to Section 108 of the Tax Code, as amended, or to the Percentage Tax imposed under Section 116 of the same Code, as the case may be;
- c. The certificates issued to the policyholder evidencing his contribution to the VUL fund which partake the nature of deeds of trust shall be subject to the imposition of DST prescribed by Section 195 of the Tax Code, as amended; and
- d. For the gain realized by the policyholder from the redemption of his units of shares in the VUL fund, the same must be declared and reported by the said policyholder for Income Tax purposes.

The tax consequences of Premium Deposit Fund (PDF) are as follows:

- a. The premiums received on account of the life insurance solicited from the policyholder, being the main business activity of the life insurance company is, in addition to the Income Tax imposed by the Title II of the Tax Code, as amended, subject to the business/ premium tax and DST;
- b. The investment income earned by the insurance company from the investment activities using the fund, in addition to the Income Tax imposed by Title II of the Tax Code, as amended, is subject to the gross receipts tax imposed under Section 121 of the same Code;
- c. The instrument issued to the policyholder evidencing deposits made to the premium deposit fund, which is treated as liability in the books of accounts of the life insurance companies, is considered as Certificate of Indebtedness subject to the imposition of DST prescribed by Section 179 of the Tax Code, as amended, at the rate of One peso (₱ 1.00) on each Two hundred pesos (₱ 200), or fractional part thereof, of the issue price of any such debt instruments; and
- d. The interest earned by the policyholder from the premium deposit fund is subject to 20% final withholding tax imposed by Sections 24(B)(1); 25(A)(2); 27((D)(1) and Section 28 (A)(7) of the Tax Code, as amended, which provides that "a final tax at the rate of 20% is imposed upon the amount of interest from any currency bank deposit and yield or any other monetary benefit from deposit substitutes and from trust funds and similar arrangements."

This is so because a close perusal of the aforementioned features of said fund shows that with the manner the insurance company operates this fund, the same can be likened to the mode by which banks accept deposits from the public whereby deposits received are apparently booked as liabilities and for such liabilities received, interest payments based on the agreed interest rate are committed to be paid to the depositors which interest and deposit can be withdrawn by said depositors anytime.

Inasmuch as insurance companies transact in the same manner as the business of the banks insofar as the premium deposit fund is concerned, interest paid to their policyholders earned out of the premium deposit fund very well falls within the purview of what may be considered as “*similar arrangements*” prescribed for by Tax Code, as amended. Thus, such interest payments are subject to the final withholding tax at the rate of 20%.

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 are likewise included in their “*gross receipts*” subject to VAT since the same is treated as casualty insurance when issued by the non-life insurance company.

The following non-life insurance companies are subject to VAT on gross premium received beginning January 1, 1996:

- a. Marine, fire and casualty insurance companies;
- b. Surety, fidelity, indemnity and bonding companies;
- c. Mutual benefit associations;
- d. Government-owned or controlled corporations engaged in the business of non-life insurance;
- e. Non-stock, non-profit organizations and cooperatives engaged in the business of non-life insurance; and
- f. All other persons, whether individual, trust/estate, partnership, association, joint venture, or corporation engaging in the non-life insurance business, such as but not limited to resident foreign persons rendering non-life insurance services in the Philippines in the course of its trade or business.

“*Gross Receipts*” does not include the following:

- a. Premiums refunded within six (6) months after payment on account of rejection of risk or returned for other reason to the person insured (return premiums);
- b. Premiums on reinsurance of a company that has already paid the tax;
- c. Premiums on account of any reinsurance, if the risk insured against covers property located outside of the Philippines;
- d. Documentary stamp and local taxes passed on by the insurance company to the insured; and
- e. VAT passed on to the insured.

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 of Fifty centavos (₱ 0.50) on each Four pesos (₱ 4.00), or fractional part thereof, of the amount of premium charged pursuant to Section 184 of the Tax Code, as amended, regardless of the fact that policies may have become ineffective due to non-payment of the corresponding premiums.

With regard to health and accident insurance policies issued by the non-life insurance company, a Documentary Stamp Tax of Fifty centavos (₱ 0.50) on each Four pesos (₱ 4.00), or fractional part thereof, of the premium charged shall be imposed pursuant to Section 185 of the Tax Code,

as amended, on all policies of insurance or bonds or obligations of the nature of indemnity for loss, damage or liability made or renewed by any person, association, company or corporation transacting the business of accident, fidelity, employer's liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), and all bonds, undertakings, or recognizances, conditioned for the performance of the duties of any office or position, for the doing or not doing of anything therein specified, and on all obligations guaranteeing the validity or legality of any bond or other obligations issued by any province, city, municipality, or other public body or organization, and on all obligations guaranteeing the title to any real estate, or guaranteeing any mercantile credits, which may be made or renewed by any such person, company or corporation .

For certificates issued, a Documentary Stamp Tax of Fifteen pesos (₱ 15.00) is imposed 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 pursuant to Section 188 of the Tax Code, as amended.

Likewise, Certificate of Cover issued pertinent to motor vehicle insurances shall be subject to the Documentary Stamp Tax imposed under Section 188 of the Tax Code.