



Bangko Sentral ng Pilipinas

MAYNILA, PILIPINAS

OFFICE OF THE GOVERNOR

MEMORANDUM TO ALL BANKS PERFORMING TRUST, OTHER FIDUCIARY BUSINESS AND INVESTMENT MANAGEMENT ACTIVITIES

Pursuant to Monetary Board Resolution No. 1748 dated December 10, 1999, Part IV (Trust, Other Fiduciary Business and Investment Management Activities) of the Manual of Regulations for Banks is hereby amended so as to include the following features/requirements for long-term investment certificates in the form of common trust funds (CTFs), individual trust and investment management accounts that may qualify for tax-exemption under Section 24 (B)(1) of R.A. No. 8424, otherwise known as "The Tax Reform Act of 1997".

Section 1. The following provisions shall be added as Subsec. X409.8 under Sec. X409 on Trust and Other Fiduciary Business.

§ **X409.8 – Tax-exempt individual trust accounts.** The following shall be the features/requirements of individual trust accounts which may be exempted from the 20% final tax under Section 24 (B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to trust indentures/agreements contracted on or after the effective date of this Memorandum;

b. The trust indenture/agreement shall only be between individuals who are Filipino citizens or resident aliens and banks acting as trustee. The trust indenture/agreement shall be non-negotiable and non-transferable;

c. The trust indenture/agreement shall indicate that pursuant to Section 24 (B)(1) of R.A. No. 8424, interest income of the trust fund derived from investments in interest-bearing instruments (e.g. time deposits, government securities, loans and other debt instruments) which are otherwise subject to the 20% final tax shall be exempt from said final tax provided the fund was held by the trustee-bank for at least five (5) years. If said fund was held for a period less than five (5) years, interest income shall be subject to a final tax based on the following schedule –



<u>Holding Period</u>	<u>Rate of Tax</u>
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the trust indenture/agreement shall clearly indicate the date when the trustee-bank actually received the trust funds which shall serve as basis for determining the holding period of the funds;

d. A trustee may accept additional funds for inclusion in trust accounts which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt trust accounts and that the interest income of the additional funds derived from investments in interest-bearing instruments shall be exempt from the 20% final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the funds were received by the trustee-bank to serve as basis for determining the minimum five (5) year holding period for tax exemption purposes of the additional funds; and

e. Tax-exempt individual trust accounts established under this Subsection shall be subject to the provisions of Subsecs. X409.1 (c) and X409.2 up to X409.7.

Section 2. The following provisions shall be added as Subsec. X410.7 under Sec. X410 on Common Trust Funds.

§ **X410.7 – Tax-exempt common trust funds.** The following shall be the features/requirements of CTFs which may qualify for exemption from the 20% final tax under Section 24 (B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to CTFs established on or after the effective date of this Memorandum;

b. The CTF indenture or plan as well as evidences of participation shall clearly indicate that participants shall be limited to individual trustors/investors who are Filipino citizens or resident aliens and that participation is non-negotiable and non-transferable;

c. The date of contributions to the CTF shall be clearly indicated in the evidence of participation to serve as basis for the trustee-bank to determine the period of participation for tax exemption purposes;

d. The CTF indenture/plan as well as the evidence of participation shall indicate that pursuant to Section 24 (B)(1) of R.A. No. 8424, interest income of the CTF derived from investments in interest-bearing instruments (e.g. time deposits, government securities, loans and other debt instruments) which are otherwise subject to the 20% final tax shall be exempt from said final tax provided participation in the CTF is for a period of at least five (5) years. If participation is for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld based on the following schedule –

<u>Participation Period</u>	<u>Rate of Tax</u>
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the date of contribution shall be clearly indicated in the evidence of participation which shall serve as basis for determining the participation period of each participant; and

e. Tax-exempt CTFs established under this Subsection shall be subject to the provisions of Subsecs. X409.1 (c), X409.2 up to X409.7, and X410.1 up to X410.6.

Regarding the required prior authority and disclosure under Subsecs. X409.2 and X409.3, a list of prospective and/or outstanding investment outlets that is made available by the trustee for the review of all CTF clients may serve as an alternative compliance, which list shall be updated quarterly.

Section 3. The following provisions shall be added as Subsec. X411.9 of Sec. X411 on Investment Management Activities.

§ X411.9 - Tax-exempt individual investment management accounts. The following shall be the features/requirements of investment management accounts of individuals which may be exempted from the 20% final tax under Section 24 (B)(1) of R.A. No. 8424 (The Tax Reform Act of 1997):

a. The tax exemption shall apply to investment management agreements contracted on or after the effective date of this Memorandum:

b. The investment management agreement shall only be between individuals who are Filipino citizens or resident aliens and investment manager-banks. The agreement shall be non-negotiable and non-transferable;

c. The minimum amount of investment for an investment management account shall be P1 million;

d. The investment management agreement shall indicate that pursuant to Section 24 (B)(1) of R.A. No. 8424, interest income of the investment management funds derived from investments in interest-bearing instruments (e.g. time deposits, government securities, loans and other debt instruments) which are otherwise subject to the 20% final tax shall be exempt from said final tax provided the funds are held under investment management by the investment manager for at least five (5) years. If said funds are held by the investment manager for a period less than five (5) years, interest income shall be subject to a final tax which shall be deducted and withheld from the proceeds of the investment management account based on the following schedule –

<u>Holding Period</u>	<u>Rate of Tax</u>
Four (4) years to less than five (5) years	5%
Three (3) years to less than four (4) years	12%
Less than three (3) years	20%

Necessarily, the investment management agreement shall clearly indicate the date when the investment manager actually received the funds which shall serve as basis for determining the holding period of the funds;

e. The investment manager may accept additional funds for inclusion in investment management accounts which have been established as tax-exempt under R.A. No. 8424. However, the receipt of additional funds shall be properly documented by indicating that they are part of existing tax-exempt investment management accounts and that the interest income of the additional funds derived from investments in interest-bearing instruments shall be exempt from the 20% final tax under the same conditions mentioned in the preceding item. The document shall also indicate the date when the additional funds were received by the investment manager-bank to serve as basis for determining the minimum five (5) year holding period for tax exemption purposes of the additional funds; and

f. Tax-exempt investment management accounts established under this Subsection shall be subject to the provisions of Subsecs. X411.1 (b) and X411.2 up to X411.8.

Section 4. The following shall be added as last paragraph to Sec. X421 on Books and Records.

The bank's trust department or investment management department shall maintain separate general ledger accounts and other relevant sub-accounts for tax-exempt individual trust accounts, CTFs and individual investment management accounts established under Sec. 24 (B)(1) of R.A. No. 8424 and Subsecs. X409.8, X410.7 and X411.9. The bank's trust department or investment management department shall also adopt appropriate systems, internal control procedures and audit trail mechanisms to ensure that the correct amount of final tax is withheld or exempted from such accounts.

Section 5. The following shall be added as second paragraph of Sec. X424 on Taxes.

With respect to tax-exempt CTFs, individual trust and investment management accounts established under Sec. 24 (B)(1) of R.A. No. 8424, the bank's trust department or investment management department shall be responsible for obtaining the tax-exemption certifications which may be required by the Bureau of Internal Revenue for the interest-bearing instruments where the CTFs, individual trust funds and investment management funds will be invested. Likewise, the banks shall ensure that the correct amount of final tax on the interest income on the interest-bearing instruments is withheld/deducted from the proceeds from the CTF participation, trust or investment management account and remitted to the Bureau of Internal Revenue in the event said tax becomes due such as when funds are withdrawn before the required five (5) year holding period or when corporations happen to invest in the tax exempt trust instruments created within the purview of R.A. No. 8424.

This Memorandum shall take effect immediately.

FOR THE MONETARY BOARD:


RAFAEL B. BUENAVENTURA
 Governor

January 3, 2000