

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

September 20, 2013

REVENUE REGULATIONS NO. 15-2013

SUBJECT: Revenue Regulations Implementing Republic Act No. 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.

SECTION 1. BACKGROUND. —

On March 7, 2013, Republic Act (RA) No. 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*" was signed into law. Pursuant thereto, international carriers may now avail of preferential rates or exemption from income tax on their gross revenues derived from the carriage of persons and their excess baggage based on the principle of reciprocity or an applicable tax treaty or international agreement to which the Philippines is a signatory. The law also provided for the exemption of international carriers from Value-Added Tax (VAT) and Common Carrier's Tax (Percentage Tax on International Carriers) on their carriage of passengers. It limits the imposition of Common Carrier's Tax (Percentage Tax on International Carriers) to the carriage of cargoes.

The policy behind the rationalization of taxes on international carriers is to improve the competitiveness of the Philippine Tourism Industry by encouraging more international carriers to maintain flight and shipping operations in the country and by the eventual reduction of international plane and ship fares. These are intended to facilitate the movement of goods and services and to attract more foreign tourists and investments.

SECTION 2. SCOPE. — Pursuant to Section 244 of the National Internal Revenue Code of 1997 (NIRC), as amended, and Section 5 of RA No. 10378, these Regulations are hereby promulgated to implement RA No. 10378, amending Sections 28(A)(3)(a), 109, 118 and 236 of the NIRC.

SECTION 3. DEFINITION OF TERMS. —

- 3.1. *Common Carrier* — refers to individuals, corporations, firms or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water or air, for compensation, offering their services to the public and shall include transportation contractors.
- 3.2. *Philippine Carrier* — refers to a Philippine Air Carrier and/or Philippine Sea Carrier, as herein defined.
- 3.3. *Philippine Air Carrier* — refers to an airline corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international air transportation of goods, passengers, or both.
- 3.4. *Philippine Sea Carrier* — refers to a shipping corporation duly organized and existing under the laws of the Republic of the Philippines that is engaged in both domestic and international sea transportation of goods, passengers, or both.
- 3.5. *International Common Carrier* — refers to an International Air Carrier or International Sea Carrier, as herein defined.
- 3.6. *Home Country* — refers to the country under whose laws the international carrier was duly organized or incorporated.
- 3.7. *International Air Carrier* — refers to a foreign airline corporation doing business in the Philippines having been granted landing rights in any Philippine port to perform international air transportation services/activities or flight operations anywhere in the world. On-line carriers refer to international air carriers having or maintaining flight operations to and from the Philippines. Off-line carriers refer to international air carriers having no flight operations to and from the Philippines.
- 3.8. *International Sea Carrier* — refers to a foreign shipping corporation doing business in the Philippines, having touched or intention of touching any Philippine port to perform international sea transportation services/activities from the Philippines to anywhere in the world and vice versa, in the case of on-line carrier, or having maintained business establishment, agent or representative office in the Philippines for the sale of owned tickets/passage documents or tickets/passage documents of other shipping companies, which shipping companies operate without touching any Philippine port, in the case of off-line carrier.
- 3.9. *On-line flights or voyages* — refer to flight or voyage operations carried out or maintained by an international carrier between ports or points in the territorial jurisdiction of the Philippines and any port or point outside the Philippines.
- 3.10. *Off-line flights or voyages* — refer to flight or voyage operations carried out or maintained by an international carrier between ports or points outside the

territorial jurisdiction of the Philippines, without touching a port or point situated in the Philippines, except when in distress or due to *force majeure*.

3.11. *Chartered flights or voyages* — refer to flight or voyage operations which include operations between ports or points situated in the Philippines and ports and points outside the Philippines, which include block charter, placed under the custody and control of a charterer by a contract/charter for rent or hire relating to a particular airplane/vessel.

3.12. “*Originating from the Philippines*” — shall include the following:

- A) Where passengers, their excess baggage, cargo and/or mail originally commence their flight or voyage from any Philippine port to any other port or point outside the Philippines;
- B) Chartered flights or voyages of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any foreign port and whose stay in the Philippines is for more than forty-eight (48) hours prior to embarkation save in cases where the flight of the airplane belonging to the same airline company or the voyage of the vessel belonging to the same international sea carrier failed to depart within forty-eight (48) hours by reason of *force majeure*;
- C) Chartered flights of passengers, their excess baggage, cargo and/or mail originally commencing their flights or voyages from any Philippine port to any foreign port; and
- D) Where a passenger, his excess baggage, cargo and/or mail originally commencing his flight or voyage from a foreign port alights or is discharged in any Philippine port and thereafter boards or is loaded on another airplane owned by the same airline company or vessel owned by the same international sea carrier, the flight or voyage from the Philippines to any foreign port shall not be considered originating from the Philippines, unless the time intervening between arrival and departure of said passenger, his excess baggage, cargo and/or mail from the Philippines exceeds forty-eight (48) hours, except, however, when the failure to depart within forty-eight (48) hours is due to reasons beyond his control, such as, when the only next available flight or voyage leaves beyond forty-eight (48) hours or by *force majeure*. *Provided, however*, that if the second aircraft belongs to a different airline company, or the second vessel belongs to a different international sea carrier, the flight or voyage from the Philippines to any foreign port shall be considered originating from the Philippines regardless of the intervening period between the arrival and departure from the Philippines by said passenger, his excess baggage, cargo and/or mail.

3.13. “*Continuous and Uninterrupted Flight or Voyage*” — refers to a flight or voyage in the carrier of the same company from the moment a passenger, excess baggage, cargo, and/or mail is lifted from the Philippines up to the point of

final destination of the passenger, excess baggage, cargo and/or mail. The flight or voyage is not considered continuous and uninterrupted if transshipment of passenger, excess baggage, cargo and/or mail takes place at any port outside the Philippines on another aircraft or vessel belonging to a different company.

- 3.14. "*Place of Final Destination*" — refers to the place of final disembarkation designated or agreed upon by the parties in a contract of air or sea transportation where the passengers, their excess baggage, cargo and/or mail are to be transported and unloaded by the contracting company.
- 3.15. "*Transient Passenger*" — refers to a passenger who originated from outside of the Philippines towards a final destination also outside of the Philippines but stops in the Philippines for a period of less than forty eight (48) hours, or even more than forty-eight (48) hours, if the delay is due to *force majeure* or reasons beyond his control, wherein in both cases the passenger boarded an airplane or vessel of the same company bound to the place of final destination.
- 3.16. "*Non-revenue passengers*" — refers to the non-revenue passengers as defined under *Resolution No. 788 of the International Air Transport Association regarding Free and Reduced Fare or Rate Transportation and any other Free/Reduced Rate Mileage Programs Administered by individual International Air Carriers*.
- 3.17. "*Adult passenger*" — refers to a passenger who has attained his twelfth (12th) birthday.
- 3.18. "*Children*" — refers to passengers who have attained their second (2nd) but not their twelfth (12th) birthday.
- 3.19. "*Infant*" — refers to a passenger who has not attained his second (2nd) birthday.
- 3.20. "*Baggage*" — refers to such articles, effects and other personal property of a passenger as are necessary or appropriate for wear, use, comfort or convenience in connection with his trip.
- 3.21. "*Excess baggage*" — refers to that part of the baggage which is in excess of that baggage which may be carried free of charge.
- 3.22. "*Refund*" — refers to the repayment to the purchaser of all or a portion of the fare, rate or charge for unused carriage or service.
- 3.23. *Tax Treaties* — refers to the Double Taxation Conventions or Double Taxation Agreements entered into by and between the Philippines and other Contracting States or jurisdictions for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

SECTION 4. INCOME TAX. —

4.1) Income Tax Imposed on International Carriers with Flights or Voyages Originating from Philippine Ports. — An international carrier having flights or voyages originating from any port or point in the Philippines, irrespective of the place where passage documents are sold or issued, is subject to the Gross Philippine Billings Tax of two and one-half percent (2½ %) imposed under Section 28(A)(3)(a) and (b) of the NIRC, as amended, unless it is subject to a preferential rate or exemption on the basis of an applicable tax treaty or international agreement to which the Philippines is a signatory or on the basis of ‘reciprocity.’

A) Determination of Gross Philippine Billings of International Air Carriers. — In computing for “Gross Philippine Billings” of international air carriers, there shall be included the total amount of gross revenue derived from passage of persons, excess baggage, cargo and/or 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 passage documents.

The gross revenue for passengers whose tickets are sold in the Philippines shall be the actual amount derived for transportation services, for a first class, business class or economy class passage, as the case may be, on its continuous and uninterrupted flight from any port or point in the Philippines to its final destination in any port or point of a foreign country, as reflected in the remittance area of the tax coupon forming an integral part of the plane ticket. For this purpose, the Gross Philippine Billings shall be determined by computing the monthly average net fare of all the tax coupons of plane tickets issued for the month per point of final destination, per class of passage (*i.e.*, first class, business class, or economy class) and per classification of passenger (*i.e.*, adult, child or infant), and multiplied by the corresponding total number of passengers flown for the month as declared in the flight manifest.

For tickets sold outside the Philippines, the gross revenue for passengers for first class, business class or economy class passage, as the case may be, on a continuous and uninterrupted flight from any port or point in the Philippines to final destination in any port or point of a foreign country shall be determined using the locally available net fares applicable to such flight taking into consideration the seasonal fare rate established at the time of the flight, the class of passage (whether first class, business class, economy class or non-revenue), the classification of passenger (whether adult, child or infant), the date of embarkation, and the place of final destination. Correspondingly, the Gross Philippine Billings for tickets sold outside the Philippines shall be determined in the manner as provided in the preceding paragraph.

Passage documents or tickets revalidated, exchanged and/or endorsed to another on-line international airline shall be included in the taxable base of the carrying airline and shall be subject to Gross Philippine Billings tax if the passenger

is lifted/boarded on an aircraft from any port or point in the Philippines towards a foreign destination.

The gross revenue on excess baggage which originated from any port or point in the Philippines and destined to any part of a foreign country shall be computed based on the actual revenue derived as appearing on the official receipt or any similar document for the said transaction.

The gross revenue for freight or cargo and mail shall be determined based on the revenue realized from the carriage thereof. The amount realized for freight or cargo shall be based on the amount appearing on the airway bill after deducting therefrom the amount of discounts granted which shall be validated using the monthly cargo sales reports generated by the IATA Cargo Accounts Settlement System (IATA CASS) for airway bills issued through their cargo agents or the monthly reports prepared by the airline themselves or by their general sales agents for direct issues made. The amount realized for mails shall, on the other hand, be determined based on the amount as reflected in the cargo manifest of the carrier.

Provided, however, that in the case of the passenger's passage documents or flights from any port or point in the Philippines and back, that portion of revenue pertaining to the return trip to the Philippines shall not be included as part of "Gross Philippine Billings."

In the case of a flight that originates from the Philippines but transshipment of passenger, excess baggage, cargo and/or mail takes place elsewhere in another aircraft belonging to a different airline company, the Gross Philippine Billings shall be determined based on that portion of the revenue corresponding to the leg flown from any point in the Philippines to the point of transshipment.

In cases where a flight is interrupted by *force majeure* resulting in the transshipment of the passengers, their excess baggage, freight, cargo and/or mail to another airplane operated by another airline company and transshipment takes place in another country, the Gross Philippine Billings shall be determined based on that portion of flight from the Philippines up to the point of said transshipment.

Non-revenue passengers shall not be given value for purposes of computing the taxable base subject to tax. Refunded tickets shall likewise not be included in the computation of Gross Philippine Billings.

In computing the taxable amount, the foreign exchange conversion rate to be used shall be the average monthly Airline Rate as provided in the Bank Settlement Plan (BSP) Monthly sales report or the Bankers Association of the Philippines (BAP) rate, whichever is higher. The average monthly BAP rate shall be computed by adding all the different BAP rates during the month and dividing the same by the number of days during the month.

Adequate schedules, records and documents, such as but not limited to the following, shall be kept and maintained at all times in the local principal office or place of business of the international airline and shall be made available to the assigned internal revenue officers for verification of the gross revenues reported for Gross Philippine Billings Tax purposes:

- I) Passenger Flight Manifest showing date, Flight Number, the names of the passengers grouped per each point of final destination as classified in accordance with the classes of passage (whether first class, business class or economy class), and further sub-grouped in accordance with the classification of passenger (whether adult, child, infant or non-revenue);
- II) Monthly Summary of Taxable and Non-Revenue Passengers, Passenger Per Day, per Flight Number showing the daily number of passengers per flight route on each day and per each point of final destination grouped in accordance with class of passage (whether first class, business class or economy class) and classification of passenger (whether adult, child, infant, or non-revenue);
- III) A complete file of cargo/mail manifests in chronological order. Based on the cargo and/or mail manifests, monthly schedules of mail revenue and cargo sales reports must be prepared containing the following information:
 - a) Cargo/mail manifest should include information on:
 - a.1) Flight number;
 - a.2) Date and time of departure;
 - a.3) Destination of the aircraft;
 - a.4) Number of airway bills per flight;
 - b) Semi-monthly Cargo Sales Reports should include information on:
 - b.1) Airway bill number;
 - b.2) Weight of cargo and the actual amount of revenue derived; and
 - b.3) Total amount of Cargo revenue for the sales period covering half month sales;
 - c) Monthly Mail Revenue should include information on:
 - c.1) Weight of Mail and Freight rate per unit of measurement; and
 - c.2) Total amount of Mail Revenue for the month
- IV) A complete record of the income/revenue from excess baggage of passengers derived in Philippine Pesos or applicable foreign currency;
- V) BSP Airline Billing Analysis Report containing the following information:
 - a) Name of travel agent;
 - b) Ticket number;
 - c) Gross fare of the ticket;

- d) Fare Adjustments and Other Deductions;
 - e) Net fare derived by airline;
 - f) Philippine Travel Taxes and Miscellaneous Taxes and fees; and
 - g) Net amount payable to the airline company (including taxes and miscellaneous fees);
- VI) Semi-Monthly Sales Report for Direct Sales or Issues made by the airline company and/or its General Sales Agent in the Philippines containing the following information:
- a) Ticket number;
 - b) Date of issuance of ticket;
 - c) Gross fare of ticket;
 - d) Fare adjustments and other deductions;
 - e) Net fare derived by airline;
 - f) Philippine Travel Taxes and miscellaneous taxes and fees; and
 - g) Net amount received (including taxes and miscellaneous fees).
- VII) A complete file of the tax coupons of airline tickets sold and ticketed in the Philippines indicating the net fare paid by the travel agent/passenger;
- VIII) A file of charter agreements/contracts in the case of chartered flights;
- IX) A complete file of airline tickets issued based on incoming prepaid ticket advices which plane tickets were sold outside the Philippines; and
- X) Copies of passenger manifests submitted to the Bureau of Immigration.

B) Determination of Gross Philippine Billings of International Sea Carriers. — In computing for “Gross Philippine Billings” of international sea carriers, there shall be included the total amount of gross revenue whether for passenger, cargo, and/or mail originating from the Philippines up to final destination, regardless of the place of sale or payments of the passage or freight documents.

Non-revenue passengers shall not be given value for purposes of computing the taxable base subject to tax. Refunded tickets shall likewise not be included in the computation of Gross Philippine Billings.

In proper cases, the domestic shipping agent shall apply for a Taxpayer Identification Number (TIN) of each foreign international shipping line it represents. Each foreign international shipping line is by itself a taxpayer separate and distinct from the agent and the other principals of the same agent. For purposes of registration and securing the TIN of the principal/s, the shipping agent must submit the Agency Agreement between him and his principal/s which will suffice as the documentation requirement.

The shipping agent shall file the pertinent tax returns for each principal using the TIN and name of the particular principal. The shipping agent should not use its own TIN in filing the returns of the principal it represents.

C) Attachments to quarterly and annual Gross Philippine Billings (GPB) returns to filed by international carriers:

- I) For quarterly and annual GPB returns - A Statement of Gross Philippine Billings duly certified by an independent Certified Public Accountant, showing among others, the Taxable Passenger Revenue for each flight number or voyage, the cumulative quarterly/annual summary as well as the monthly summary totals of gross revenue derived from the uplifts/transport of passengers, excess baggage, cargo and mails from the Philippines subject to tax under Section 28(A)(3) of the NIRC, as amended, the applicable average conversion rate mentioned in Sec. 4.1(A) hereof to arrive at the Taxable Gross Philippine Billings, and the GPB rate used in arriving at the tax due for the quarter/year.
- II) For annual GPB returns - Audited Financial Statements, even in cases of no-payment returns due to tax exemption.

4.2) Preferential Income Tax Rate or Exemption of International Carrier with Flights or Voyage Originating from Philippine Ports. — Under Section 28(A)(3) of the NIRC, as amended by RA No. 10378, international carriers doing business in the Philippines may avail of a preferential income tax rate or income tax exemption on their gross revenues derived from the carriage of persons and their excess baggage on the basis of the following:

A) Applicable tax treaty to which the Philippines is a signatory. — Tax Treaties generally allow the Philippines to impose preferential income tax rates on profits from the operation of ships or aircrafts in international traffic by residents of the other contracting states. There are Tax Treaties which provide that the tax shall not exceed the lesser of one and one-half percent (1½ %) of the gross revenues derived from sources in the Philippines, or the lowest rate of the Philippine tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State.

In order to avail of the preferential income tax rates under Tax Treaties, international carriers shall observe the procedures stated in Revenue Memorandum Order No. 072-10 on the *Guidelines on the Processing of Tax Treaty Relief Applications (TTRA) Pursuant to Existing Philippine Tax Treaties*. Accordingly, a tax treaty relief application (TTRA) is required to be filed with the International Tax Affairs Division (ITAD) of the BIR and duly approved by the Commissioner of Internal Revenue or his/her duly authorized representative, before an international carrier may be entitled to avail of the preferential rate.

A TTRA filed by and/or granted to an international carrier prior to the effective date of these Regulations shall remain valid and binding, thus dispensing with the need for such international carrier to file a new TTRA under these Regulations.

B) Reciprocity. — This may be invoked by an international carrier as basis for Gross Philippine Billings Tax exemption when its Home Country grants income tax exemption to Philippine carriers.

The domestic law of the Home Country granting exemption shall cover income taxes and shall not refer to other types of taxes that may be imposed by the relevant taxing jurisdiction. The fact that the tax laws of the Home Country provide for exemption from business tax, such as gross sales tax, in respect of the operations of Philippine carriers shall not be considered as valid and sufficient basis for exempting an international carrier from Philippine income tax on account of reciprocity.

Reciprocity requires that Philippine carriers operating in the Home Country of an international carrier are actually enjoying the income tax exemption.

The following procedures shall be observed in order to avail exemption from Gross Philippine Billings Tax on the basis of 'reciprocity':

- l) The international carrier shall file an application for a confirmatory ruling for its Gross Philippine Billings Tax exemption on the basis of reciprocity with the International Tax Affairs Division (ITAD) of the Bureau of Internal Revenue by submitting the following documents:
 - a) Request letter providing a brief overview of its operations and specifying the legal basis relied upon to establish that its Home Country grants income tax exemption to Philippine carriers;
 - b) Original Copy of consularized certification issued by the tax authority of the Home Country of the international carrier to the effect that such international carrier is a resident of such country;
 - c) Original copy of a certification from the Philippine Securities and Exchange Commission (SEC) stating that the international carrier is registered to engage in business in the Philippines;
 - d) Competent Proof of Reciprocity:
 - d.1) Until such time that the Department of Finance (DOF), in coordination with the Department of Foreign Affairs (DFA), has entered into an exchange of notes between the Philippines and the Home Country of an international carrier, as mentioned in Section 5 of RA No. 10378, for purposes of facilitating the availment of reciprocal exemptions provided under the last paragraph of Section 28(A)(3) of the NIRC, as amended by RA No. 10378, the following documents shall be submitted:

- i) Original copy of consularized certification issued by the tax authority of the Home Country of the international carrier stating that Philippine carriers, or in general, all international carriers operating in such country, are granted income tax exemption under its laws. The certification shall cite the legal basis of such exemption; and
 - ii) An official publication of the laws of the Home Country of the international carrier relied upon (in English translation) to establish that its Home Country grants income tax exemption to Philippine carriers; or a copy of the such laws of its Home Country (in English translation) attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. The certificate may be issued by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent, or any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office. The attestation must state, in substance, that the copy is a correct copy of the original, or a specific part thereof, as the case may be, and must be under the official seal of the attesting officer.
- d.2) Upon the execution of the Exchange of Notes between the Philippines and the Home Country of the concerned international carrier, reference to the relevant Exchange of Notes facilitating the availment of reciprocal exemptions provided under the last paragraph of Section 28(A)(3) of the NIRC, as amended by RA No. 10378, shall suffice for purposes of complying with the requirement of a competent proof of reciprocity described above.

The specific procedures expressly provided in the Exchange of Notes may amend/supersede the procedure for availment provided under these Regulations, to the extent that they are incompatible with those prescribed herein.

- e) Such other documents as may be prescribed by the BIR for the proper evaluation of the application.
- II) The ITAD shall, upon submission of all the necessary documents, prepare the ruling confirming the tax exempt status of the applicant international carrier, for final approval of the Commissioner of Internal Revenue or his or her duly authorized representative.
- III) It shall be the duty of ITAD to monitor the granting of preferential tax rates and tax exemptions to international carriers. The ITAD shall also furnish copies of rulings issued to international carriers to the concerned offices of the Bureau of Internal Revenue.

C) Applicable international agreement to which the Philippines is a signatory. — While RA No. 10378 recognizes international agreements as basis for granting exemption or preferential tax rate to international carriers, the Philippines, to date, has not negotiated any agreement with another state or jurisdiction providing for income tax exemption or preferential tax treatment to international carriers aside from tax treaties.

4.3) International Carriers Without Flights/Voyage Starting From Or Passing Through Any Point In The Philippines. — An off-line international carrier having a branch/office or a sales agent in the Philippines which sells passage documents for compensation or commission to cover off-line flights/voyages of its principal or head office, or for other airlines/sea carriers covering flights/voyages originating from Philippine ports or off-line flights/voyages, is not considered engaged in business as an international carrier in the Philippines and is, therefore, not subject to Gross Philippine Billings Tax provided for in Section 28(A)(3) of the NIRC, as amended. Nevertheless, an off-line international carrier shall be subject to the regular rate of income tax under Section 28(A)(1) of the NIRC, as amended, based on its taxable income from sources within the Philippines.

4.4) Taxability of Income Other Than Income From International Transport Services. — All items of income derived by international carriers that do not form part of Gross Philippine Billings as defined under these Regulations shall be subject to tax under the pertinent provisions of the NIRC, as amended.

Demurrage fees, which are in the nature of rent for the use of property of the carrier in the Philippines, is considered income from Philippine source and is subject to income tax under the regular rate as the other types of income of the on-line carrier.

Detention fees and other charges relating to outbound cargoes and inbound cargoes are all considered Philippine-sourced income of international sea carriers they being collected for the use of property or rendition of services in the Philippines, and are subject to the Philippine income tax under the regular rate.

SECTION 5. COMMON CARRIER'S TAX. — International air carriers and international shipping carriers doing business in the Philippines on their gross receipts derived from the transport of cargo from the Philippines to another country shall pay a Common Carrier's Tax (Percentage Tax on International Carriers) equivalent to three percent (3%) of their quarterly gross receipts pursuant to Section 118 of the NIRC, as amended by RA No. 10378.

For purposes of determining the Common Carrier's Tax liability of international carriers pursuant to Section 118 of the NIRC, as amended, "gross receipts" shall include, but shall not be limited to, the total amount of money or its equivalent representing the contract, freight/cargo fees, mail fees, deposits applied as payments, advance payments and other service charges and fees actually or

constructively received during the taxable quarter from cargo and/or 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 passage documents.

In cases when the Gross Philippines Billings Tax provided for in Section 28(A)(3) of the NIRC, as amended, is not applicable, the Common Carrier's Tax herein imposed under Section 118 of the NIRC, as amended, shall still apply. Provided that, an off-line international carrier having a branch/office or a sales agent in the Philippines which sells passage documents for compensation or commission to cover off-line flights or voyages of its principal or head office, or for other airlines/sea carriers covering flights or voyages originating from Philippine ports or off-line flights or voyages, is not considered engaged in business as an international carrier in the Philippines and is, therefore, not subject to the three percent (3%) Common Carrier's Tax under Section 118(A) of the NIRC, as amended. This provision is without prejudice to classifying such taxpayer under a different category pursuant to a separate provision of the NIRC.

SECTION 6. VALUE-ADDED TAX. — The transport of passengers by international carriers doing business in the Philippines shall be exempt from value-added tax (VAT) pursuant to Sections 109(1)(S) of the NIRC, as amended by RA No. 10378. The transport of cargo by international carriers doing business in the Philippines shall be exempt from VAT pursuant to Sections 109(1)(E) of the NIRC, as amended by RA No. 10378, as the same is subject to Common Carrier's Tax (Percentage Tax on International Carriers) under Section 118 of the NIRC, as amended. International carriers exempt under Sections 109(1)(S) and 109(1)(E) of the NIRC, as amended, shall not be allowed to register for VAT purposes.

SECTION 7. REPORTORIAL REQUIREMENT. — International carriers, through their authorized personnel or representative, shall submit to ITAD a sworn certification stating that there is no change in the domestic laws of its Home Country granting income tax exemption to Philippine carriers (**Annex A**). The sworn certification shall be submitted on or before January 31 of each year from the time the international carrier was issued a ruling by the BIR confirming its Gross Philippines Billings Tax exemption on the basis of reciprocity as prescribed in Section 4.2(B) hereof. Failure to submit the sworn certification shall be a ground for the revocation of such ruling.

SECTION 8. PENALTY CLAUSE. — Any violation of the provisions of these Regulations shall be subject to penalties provided in Section 275 and other pertinent provisions of the NIRC, as amended.

SECTION 9. REPEALING CLAUSE. — All existing rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of these Regulations are hereby modified, amended, repealed and revoked accordingly.

SECTION 10. SEPARABILITY CLAUSE. — If any of the provisions of these Regulations is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SECTION 11. EFFECTIVITY CLAUSE. — These Regulations shall take effect after fifteen (15) days following its complete publication in a newspaper of general circulation in the Philippines.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

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

ANNEX A

SWORN CERTIFICATION

KNOW ALL MEN BY THESE PRESENTS:

I, _____, in my capacity as _____ of _____, with business address _____, do hereby certify that there is NO substantial change in the law entitled _____ granting _____ to Philippine Carriers as of _____ (date).

This certification is being issued as a requisite in the availment of tax exemption based on reciprocity with the International Tax Affairs Division of the Bureau of Internal Revenue.

SIGNATURE OF REPRESENTATIVE
OVER PRINTED NAME

TITLE/POSITION OF SIGNATORY

IN WITNESS WHEREOF, I have signed this Certification on this _____ day of _____, 20____ in _____.

NOTARY PUBLIC