



ZG LAW

ZAMBRANO GRUBA CAGANDA & ADVINCULA

CLIENT ADVISORY

DST Exemption on Loan Reliefs Falling Due Within the ECQ Period

WPG

/ a regional law network

Q: Are there tax exemptions on the extension or restructuring of credits during the ECQ period?

A: The BIR issued Revenue Regulation ("RR") No. 8-2020 providing that, pursuant to Sections 4(aa) and 4(n) of RA 11469, **no additional Documentary Stamp Tax** ("DST"), including that imposed under Section 179ⁱ, 195ⁱⁱ, and 198ⁱⁱⁱ of the National Internal Revenue Code ("NIRC"), shall apply to credit extensions and credit restructuring, micro-lending including those obtained from pawnshops and extensions thereof during the ECQ period.

Revenue Memorandum Circular ("RMC") No. 35-2020 and 36-2020, was also subsequently issued which reiterates the DST exemption under RR No. 8-2020 to implement Sections 4(aa) and 4(n) of RA 11469.

Q: What loan reliefs are covered under RR No. 8-2020 and RR No. 35-2020?

A: RR No. 8-2020 and RR No. 35-2020 covers all extensions of payment and/or maturity periods of all loans including but not limited to salary, personal, housing and motor vehicle loans, as well as credit card payments falling due within the period of the ECQ Period contemplated by Section 4(aa) of RA 11469, including the extension of maturity periods originally fall due within the ECQ. It also covers credit restructuring, and micro-lending including those obtained from pawnshops and extensions thereof during the ECQ Period.

Q: What are the guidelines and/or clarifications on the application of Documentary Stamp Tax ("DST") Exemption to loan reliefs during the Enhanced Community Quarantine ("ECQ") Period?

A: Under BIR RMC No. 36-2020 dated 3 April 2020, the **general** guidelines for the application of DST exemption to loan reliefs are as follows:

1. For pre-existing loans prior to ECQ Period

No additional DST from Sections 175, 195, and 198 of the National Internal Revenue Code, as amended, shall be imposed on:

- a.1) credit extensions and credit restructuring, micro lending including those obtained from pawnshops and extensions thereof during the ECQ Period; and
- a.2) all extensions of payment and/or maturity periods of all pre-existing loans, including but not limited to salary, personal, housing, and motor vehicle loans, falling due within the ECQ Period, including the extension of maturity

periods that may result from the grant of grace period for these payments, whether or not such maturity periods originally fall due within the ECQ.

(Reiterating Revenue Regulation No. 8-2020 and RMC No. 35-2020.)

2. For loans during the ECQ Period

Fresh loan availments, top-up to existing loans, and new loan drawdowns during the ECQ Period and its collateral documentation remain subject to DST, as applicable.

Q: For purposes of the said DST Exemption, how are Credit Extensions and Credit Restructuring defined or further clarified?

A: RMC No. 36-2020 defined credit extensions and credit restructuring, and further clarified the DST treatments as follows:

Credit Extension	Credit Restructuring
a. Those pertaining to pre-existing loans that fall due during the ECQ Period where interest is paid but the principal is converted into a new loan with a new maturity date. The said new loan principal and the renewal or extension of the loan's mortgage, pledge, or deed of trust (collateral documentation) shall likewise be exempt from DST. b. Those pertaining to pre-existing loans that fall due during the ECQ Period where the interest is paid but the <u>principal is rolled-over or renewed as a new loan principal</u> in accordance with pre-agreed roll-over arrangement and collateral documentation thereof <u>prior to the COVID-19 situation</u> <u>shall remain subject to DST.</u>	a. Those pertaining to pre-existing loans that fall due during the ECQ Period where both the principal and interests are not paid but are consolidated and converted into a new loan principal with a new maturity date and the renewal or extension of the loan's mortgage, pledge or deed of trust (collateral documentation) shall likewise be exempt from DST. b. Those pertaining to pre-existing loans that falls due during the ECQ Period where there is payment of interest and partial payment of principal on maturity while the remaining unpaid principal is converted into a new loan principal with a new maturity date and the renewal or extension of the loan's mortgage, pledge or deed of trust (collateral documentation) shall likewise be exempt from DST.

Q: Are there reportorial requirements that must be complied with after the lifting of the ECQ?

A: Yes. The Covered Institutions^{iv} (i.e., lender) shall submit in softcopy and hardcopy, a summary listing of all pre-existing loans, pledges, and other instruments as of 17 March

2020 (commencement of ECQ Period) which granted extension of payment and maturity periods based on the following format:

Name of Taxpayer
 Summary listing of Pre-existing Loans, Pledges, and other Instruments
 with Granted Extension of Payments and/or Maturity Periods
 As of 17 March 2020

Type of Instrument	Date of Loan Agreement/ Promissory Note, Pledge, etc.	Document Reference Number (Account ID/Reference ID, as applicable)	Original Payment Deadline Maturity Period	Extended Payment Deadline/ Maturity Period	Amount of Loan/Pledge

The said Summary Listing shall be submitted to the Revenue District Office/Large Taxpayers District Office where the taxpayer is registered within sixty (60) days from the lifting of the ECQ.

The hardcopy of the above summary listing together with the photocopies of the documents evidencing the credit extensions and credit restructuring shall be made under oath as to the completeness, truth, and accuracy thereof by a duly authorized officer or representative of the taxpayer.

Q: Is there a penalty in case of failure to submit such reportorial requirements?

A: Yes. In case of failure to submit the summary listing required on the date prescribed therefor, there shall, upon notice and demand of the Commissioner, be paid by the Covered Institution, the additional DST that should have been imposed on the instrument during the ECQ Period as imposed under the Tax Code, as amended, plus administrative penalties incident to such failure.

Disclaimer: The information in this article is for general information only and is not intended nor should be construed as a substitute for legal advice on any specific matter. A professional legal advice is still advisable and necessary.

ⁱ **"Sec. 179. Stamp Tax on All Debt Instruments.—** On every original issue of debt instruments, there shall be collected a documentary stamp-tax of One peso and fifty centavos (₱1.50) on each Two hundred pesos (₱200), or fractional part thereof, of the issue price of any such debt instruments: Provided, That for such debt instruments with terms of less than one (1) year, the documentary stamp tax to be collected shall be of a proportional amount in accordance with the ratio of its term in number of

days to three hundred sixty-five (365) days: Provided, further, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan."

(as amended by Section 55 of TRAIN Law)

ii **"Sec. 195. Stamp Tax on Mortgages, Pledges and Deeds of Trust.** - On every mortgage or pledge of lands, estate, or property, real or personal, heritable or movable, whatsoever, where the same shall be made as a security for the payment of any definite and certain sum of money lent at the time or previously due and owing of forbore to be paid, being payable and on any conveyance of land, estate, or property whatsoever, in trust or to be sold, or otherwise converted into money which shall be and intended only as security, either by express stipulation or otherwise, there shall be collected a documentary stamp tax at the following rates:

(a) When the amount secured does not exceed Five thousand pesos (P5,000), Forty pesos (P40.00).

(b) On each Five thousand pesos (P5,000), or fractional part thereof in excess of Five thousand pesos (P5,000), an additional tax of Twenty pesos (P20.00).

On any mortgage, pledge, or deed of trust, where the same shall be made as a security for the payment of a fluctuating account or future advances without fixed limit, the documentary stamp tax on such mortgage, pledge or deed of trust shall be computed on the amount actually loaned or given at the time of the execution of the mortgage, pledge or deed of trust, additional documentary stamp tax shall be paid which shall be computed on the basis of the amount advanced or loaned at the rates specified above: Provided, however, That if the full amount of the loan or credit, granted under the mortgage, pledge or deed of trust shall be computed on the amount actually loaned or given at the time of the execution of the mortgage, pledge or deed of trust. However, if subsequent advances are made on such mortgage, pledge or deed of trust, additional documentary stamp tax shall be paid which shall be computed on the basis of the amount advanced or loaned at the rates specified above: Provided, however, That if the full amount of the loan or credit, granted under the mortgage, pledge or deed of trust is specified in such mortgage, pledge or deed of trust, the documentary stamp tax prescribed in this Section shall be paid and computed on the full amount of the loan or credit granted."

(as amended by Section 68 of TRAIN Law)

iii **"SEC. 198. Stamp Tax on Assignments and Renewals of Certain Instruments.** - Upon each and every assignment or transfer of any mortgage, lease or policy of insurance, or the renewal or continuance of any agreement, contract, charter, or any evidence of obligation or indebtedness by altering or otherwise, there shall be levied, collected and paid a documentary stamp tax, at the same rate as that imposed on the original instrument."

iv Not limited to banks, quasi-banks, financing companies, lending companies, and other financial institutions, private and public, including the Government Service Insurance System, Social Security System, and Pag-ibig Fund.