REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

BANCO DE ORO UNIVERSAL BANK, Petitioner,	**C.T.A. CASE NO. 6948**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** JUN 29 2007

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DECISION

CASTAÑEDA, JR., *J*.:

This is a decision on a Petition for Review seeking for the reversal of respondent's Decision dated March 10, 2004 denying petitioner's administrative protest against Assessment Notice No. DST-2-99-000025 and ordering petitioner to pay the deficiency documentary stamp tax in the amount of ₱74, 631,086.79, including increments, for taxable year 1999.

Petitioner, Banco de Oro Universal Bank, is a domestic corporation organized and existing under Philippine laws with license to operate as a universal bank from the Bangko Sentral ng Pilipinas. It has its principal offices

194

at Banco de Oro Building, No. 12 ADB Avenue corner Julia Vargas, Ortigas Center, Pasig City.[1]

Respondent is a public officer with capacity to sue and be sued;[2] vested by law with the power and authority under the National Internal Revenue Code (NIRC) to exercise the functions of said office, including, *inter alia*, the power to act upon and decide disputed assessments, with office address at the BIR Building, Diliman, Quezon City.

Pursuant to Letters of Authority Nos. 52516[3] and 2211,[4] respondent conducted an investigation of petitioner's internal revenue tax liabilities for the year ended December 31, 1999.[5] On January 24, 2003, the BIR team that conducted the investigation submitted a report and found, among others, that there was deficiency documentary stamp tax due from petitioner on its special savings deposit accounts in the amount of ₱71, 834,803.36.[6]

On February 11, 2003, the petitioner received Pre-Assessment Notice dated February 5, 2003, notifying petitioner that, based on the results of the investigation conducted, it was found to have tax liabilities covering deficiency DST due on its special savings account known as the "Mega Savings Deposit," for the taxable year 1999.[7]

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[1] Par. 2, Joint Stipulation of Facts and Issues.
[2] Par. 3, Joint Stipulation of Facts and Issues.
[3] Dated June 26, 2001. BIR Records, p. 44.
[4] Dated December 7, 2000. BIR Records, p. 42
[5] Par. 6, Joint Stipulation of Facts and Issues
[6] Composed of Group Supervisor Rodolfo G. Mendoza and Revenue Officers M.P. Bautista, M.L. Macalintal, E.Q. Catuday, M.L. YU and N.A. Divino (see Exhibit "1"; BIR Records, pp. 01630-01635).
[7] Par. 7, Joint Stipulation of Facts and Issues; BIR Records,, p. 1654.

195

On February 26, 2003, petitioner filed its protest to against the Pre-Assessment Notice (PAN).[8]

On March 19, 2003, petitioner received the Formal Letter of Demand, Details of Discrepancies, Formal Assessment Notice (FAN), all dated March 7, 2003, assessing deficiency DST on its Mega Savings Deposit for the taxable year 1999, in the amount of ₱74,631,086.79, including interest. Petitioner was given a period of thirty (30) days within which to pay the assessment and present proof of payment to the BIR.[9]

On April 15, 2003, petitioner filed its protest against the FAN.[10]

On March 18, 2004, petitioner received a copy of respondent's Decision dated March 10, 2004[11] denying petitioner's protest and affirming the assessment, the dispositive portion of which reads:[12]

> "WHEREFORE, predicated on all the foregoing, BANCO DE ORO's protest against Assessment Notice No. DST-2-99-000025 is hereby DENIED. Consequently, BANCO DE ORO is hereby ordered to pay the total amount of ₱74, 631,086.79, as deficiency documentary stamp tax for the taxable year 1999, plus increments that have legally accrued thereon until the actual date of payment, to the Large Taxpayer's Service, BIR National Office Building, Quezon City, within thirty (30) days from receipt hereof; otherwise, collection thereof will be effected through the summary remedies provided by law.
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> This constitutes the FINAL DECISION of this Office on the matter."

Pursuant to Section 228(e) of the Tax Code of 1997, petitioner has a period of thirty (30) days from receipt of the Decision, or until April 17, 2004,

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[8] Par. 8, Joint Stipulation of Facts and Issues; BIR Records, pp. 01656-01658.
[9] Par. 9, Joint Stipulation of Facts and Issues; BIR Records, pp. 01665-01667.
[10] Par. 10, Joint Stipulation of Facts and Issues; BIR Records, pp. 01668-01670.
[11] BIR Records, pp. 01680-01688.
[12] Par. 11, Joint Stipulation of Facts and Issues.

within which to appeal to this Court.[13] Thus, on April 16, 2004, petitioner filed its Petition for Review with this Court.

In his Answer filed on June 3, 2004, respondent interposed the following Special and Affirmative Defenses, to wit:

> "3. He repleads the preceding paragraphs as part of the Special and Affirmative Defenses;
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> 4. Petitioner's Mega Savings Deposits are considered time deposits and are subject to documentary stamp tax (DST) under Section 180 of the National Internal Revenue Code of 1997 (*United Overseas Bank Philippines vs. CIR, CTA Case No. 6421, April 21, 2004)*;
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> 5. In the case of *BPI-Family Savings Bank vs. CIR & CTA, CA-G.R. No. SP 29853, September 19, 1994,* the Court of Appeals, in interpreting the provision of Section 180 of the NIRC, named with particularity the instruments subject to DST. Said the Court:
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> > "A perusal of Section 180 of the Tax Code will show that it covers the following instruments:
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> > (1) promissory note, whether negotiable or not;
> > (2) bills of exchange;
> > (3) drafts;
> > (4) certificates of deposit; and
> > (5) debt instruments used for deposit substitutes."
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> 6. A "certificate of deposit" as defined in the BPI-Family Bank case is a written acknowledgment by a bank of the receipt of money on deposit which the bank promises to pay to the depositor, bearer or to some other person or order (*Olsons Estate 206, Iowa, 706, 219 N.W. 40 cited in Agbayani, op.cit., p.44).*
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> 7. Fragmenting the essential elements of the aforestated definition, it can be inferred that a certificate of deposit presupposes:
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> 1. That a bank receives money on deposits;
> 2. From someone who is considered a "depositor";
> 3. That the bank acknowledges receipt of the deposit in writing; and

[13] Par. 5, Joint Stipulation of Facts and Issues.

197

4. That the bank promises to pay to the depositor/bearer/or to some other person or order the deposit or any part thereof.

Having met all the above-mentioned technical requirements, Mega Savings Deposit of petitioner is unmistakably a "certificate of deposit" for which taxability to DST lies.

8. The "certificate of deposit" stated in Section 180 does not prescribe any particular form. The fact that the Mega Savings Deposit is evidenced by a passbook similar to those issued to the regular savings account, instead of a certificate of deposit, does not alter the substance of the Mega Savings Deposit. What is controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as its substance is paramount rather than its form.

9. Assuming arguendo that the Mega Savings Deposit is not a certificate of deposit, it is a loan agreement because the relationship between a depositor and a bank is that of creditor and debtor (*Gullas vs. PNB, 62 Phil. 519; Integrated Realty Corp. vs. PNB, 124 SCRA 295*). As such, it is subject to DST under Section 180 of the Tax Code.

10. All presumptions are in favor of the correctness of tax assessments. The good faith of tax assessors and the validity of their actions are presumed. They will be presumed to have taken into consideration all the facts to which their attention was called (*CIR vs. Construction Resources of Asia, Inc. 145 SCRA 671*). It is incumbent upon the taxpayer to prove the *contrary* (*Mindanao Bus Company vs. CIR, 1 SCRA 538; CIR vs. Tuazon, Inc., 173 SCRA 397*) and failure to do so shall vest legality to respondent's actions and assessments."

After trial and the parties submitted their respective Memoranda,[14] the Court considered the case as deemed submitted for decision in a Resolution dated October 26, 2006.

The issues, as stipulated by the parties, are as follows:

1. Whether or not the Mega Savings Deposit are subject to documentary stamp tax under Section 180 of the Tax Code;

[14] Petitioner filed its Memorandum on October 9, 2006; while respondent filed his Memorandum on April 27, 2006.

2. Whether or not petitioner is liable for the amount of P74,631,086.79 representing deficiency DST for the taxable year 1999;

3. Whether or not the Mega Savings Deposit is of the same nature as regular savings deposits and therefore exempt from DST;

4. Whether or not Circular No. 16-2003 can amend Section 180 of the Tax Code;

5. Assuming that Circular No. 16-2003 can amend a provision of law, whether or not the same can be given retroactive effect; and

6. Whether or not petitioner's legal position is consistent with the intent of the legislative which enacted Section 180 of the Tax Code of 1997, as evidenced by the recent enactment of R.A. No. 9243."

Petitioner submits that in 1999, there was no law imposing DST on the Mega Savings Deposit. It avers that Section 180 of the 1997 Tax Code is a mere re-enactment, with some amendments, of Title VII of the National Internal Revenue Code of 1977, as amended by R.A. No. 7669. R.A. No. 7660, otherwise known as the "Documentary Stamp Tax Law", and the implementing Revenue Regulations No. 9-94 do not define what a "certificate of deposit" subject to DST under Section 180 of the Tax Code or state that a savings deposit is covered; Revenue Regulations No. 12-80 regulates taxation of certain income from banking activities and not the imposition of DST; and Revenue Memorandum Circular No 16-2003 was only issued on February 18, 2003. Thus, there is no law or regulation imposing DST on "savings deposit" in 1999.

It is petitioner's legal position that the "certificate of deposit" subject to DST is one that meets the following requirements:

(a) it must cover a deposit of a sum of money;

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(b) the deposit must be interest-drawing;
(c) it must be a deposit payable otherwise than at sight or on demand [in other words, the deposit must have a fixed maturity date]; and
(d) It must be evidenced by a "certificate."

These elements are hallmarks of a "time deposit" as defined in Revenue Regulations No. 12-80, which regulates the taxation of certain income derived from banking activities.

Petitioner alleges that its "Mega Savings Deposit" is a savings deposit offered to its clients in addition to "time deposit". It is an interest-earning deposit that may be withdrawn upon demand and is covered by a Savings Account Passbook, not by a certificate. Petitioner posits that even assuming that the form of document evidencing the deposit is not relevant, a deposit must nonetheless be one with a fixed maturity, meaning, not payable at sight or upon demand, in order that the "certificate" or "instrument" evidencing the same may be subject to tax under Section 180.

Petitioner also alleges that in denying its protest, respondent relied on the decision of the Court of Appeals in *BPI Family Bank v. Commissioner of Internal Revenue*,[15] which is still pending before the Supreme Court. Said case should not be applied in the above-captioned case as it lacks the force of law.

Petitioner further alleges that when respondent denied petitioner's protest, he relied heavily on the provisions of Revenue Memorandum Circular ("RMC") No. 16-2003.[16] Said RMC supplants, enlarges upon and amends the

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[15] CA-G.R. No. 29853.
[16] Dated February 18, 2003, which defines the term "Certificate of Deposit" for the purpose of clarifying its taxability under Section 180 of the National Internal Revenue Code (Tax Code) of 1997.

provisions of Section 180 of the Tax Code of 1997, which respondent may not do as it would amount to executive legislation. Even assuming that a memorandum circular can amend a revenue regulation, the same cannot be given retroactive effect. Revenue Memorandum Circular No. 16-03 has been adopted only on February 18, 2003, and the same cannot have application to the DST obligation of petitioner for the taxable year 1999.

Finally, petitioner submits that its legal position is consistent with the intent of the legislature. Under the provision of Republic Act No. 9243, it would appear that bank deposits drawing interest higher than the regular savings rate, despite the fact that the same may be withdrawn upon demand, is subject to DST, taking into consideration the size of deposit and the risks involved; that said deposit need not be evidenced by a certificate but may be covered by other instruments. The fact that there was a need to amend Section 180 of the Tax Code of 1997, shows that the previous provision on documentary stamp tax in force in 1999, did not cover Mega Savings Deposit.

This case is not one of first impression. In a number of cases, this Court has consistently held that a special savings account, similar to petitioner's Mega Savings Deposit, is subject to documentary stamp tax.[17] In

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[17] *United Overseas Bank of the Philippines vs. Commissioner of Internal Revenue*, CTA Case No. 6411, April 21, 2004; *Traders Royal Bank vs. Commissioner of Internal Revenue*, CTA Case No. 6392, April 28, 2004; *Keppel Bank Philippines, Inc., vs. Commissioner of Internal Revenue, Hon. Guillermo L. Parayno, Jr. (as the successor of former Commissioner Rene G. Bañez)*, CTA Case No. 6560, June 23, 2004; *Prudential Bank vs. Bureau of Internal Revenue, represented by the Commissioner of Internal Revenue*, CTA Case No. 6198, February 16, 2005; *Banco de Oro vs. Commissioner of Internal Revenue,* CTA Case No. 6588, August 5, 2005; *Solidbank Corporation (now First Metro Investment Corporation) vs. Commissioner of Internal Revenue*, CTA Case No. 6889, March 28, 2006; *Bank of Commerce vs. Commissioner of Internal Revenue*, CTA Case No. 6975, August 31, 2006; *United Overseas Bank Philippines vs. Commissioner of Internal Revenue*, CTA Case No. 6869, July 21, 2006; and *United Overseas Bank Philippines vs. Commissioner of Internal Revenue*, CTA Case No. 6978, July 31, 2006.

an *en banc case*, this Court has decided that petitioner's Mega Savings Deposit is subject to documentary stamp tax. We quote:

> "With the above definitions, petitioner's Mega Savings Deposits possess two essential features of a time deposit, namely: the holding period and the preferential interest upon the completion of the holding period. Removing the two distinguishing features will make such deposits no different from petitioner's regular savings deposits.
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> Otherwise stated, petitioner treats its Mega Savings Account as though it is a regular savings account whenever money deposited therein is withdrawn prior to the lapse of the holding period, by applying the interest rate of a regular savings account. This is really an authorized pre-termination of deposits. The account shall earn the preferential rate or earn 'mega savings' only after the holding period is/are completed. The preferential rate is not rightfully earned and cannot be demanded from petitioner to apply on deposits prior to expriation of the holding period, thus, making such Mega Savings Deposits not payable on sight or demand.
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> "The issuance of passbooks, rather than the usual certificates of time deposit, is not controlling to determine the nature of the deposits. Passbooks and certificates are mere evidence of different types of bank deposits. What distinguishes one from the other is not the passbook or the certificate, but the features of each account the banks offer to the public. Even petitioner admits that the use of passbooks for time deposits is an innovation offered by the banks in response to public clamor for convenience."

In the present case, petitioner offered no other arguments that will warrant this Court to depart from its previous rulings.

Section 180 of the National Internal Revenue Code of **1977**, as amended, subjects to documentary stamp tax "certificates of deposit bearing interest". Section 180 of the NIRC of 1977 reads:

> *"Sec. 180. Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, certificates of deposit*

> *bearing interest and others not payable on sight or demand.* – On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or certificates of deposits drawing interest, or orders for the payment of any sum of money otherwise than at sight or on demand, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided,* That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan, whichever will yield a higher tax: *Provided, however,* That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this section. (as amended by R.A. No. 7660)"

From the afore-quoted provision, it can be deduced that the following documents are subject to DST:

1. Loan Agreements;
2. Promissory notes:
3. Bills of exchange;
4. Drafts, instruments and securities issued by the Government or any of its instrumentalities;
5. Certificates of deposit bearing interest; and
6. Other orders for the payment of any sum of money otherwise than at sight or demand.

Section 180 of the Tax Code of 1997 has likewise subjected to documentary stamp tax certificates of deposits drawing interest. To quote:

> "SEC. 180. *Stamp Tax on All Bonds, Loan Agreements, Promissory Notes, Bills of Exchange, Drafts, Instruments and Securities Issued by the Government or Any of its Instrumentalities, Deposit Substitute Debt Instruments, Certificates of Deposits bearing Interest and Other Not Payable on Sight or Demand.* – On all bonds, loan agreements, including those signed abroad, wherein the object of the contract is located or used in the Philippines, bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities, deposit substitute debt instruments, **certificates of deposits drawing**

> **interest**, orders for the payment of any sum of money otherwise than at sight or on demand, on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P.30) on each Two hundred pesos (P200), or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided,* That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan, which ever will yield a higher tax: *Provided, however,* That loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this Section." (Emphasis supplied)

In fact, R.A. No. 9243 was later enacted and made clear Section 180 of both the 1977 and the 1997 Tax Code, as amended, by enumerating those subject to documentary stamp tax. As this Court ruled in *Banco de Oro Universal Bank* case that in enacting Republic Act No. 9243, "[t]he lawmaking body unmistakably adopted this Court's interpretation of Section 180 of the National Internal Revenue Code of 1997, and made clearer the language used to include therein certificates and other evidences of deposits that are either drawing interest having a specific maturity date, orders for payment of any sum of money otherwise than at sight or on demand. When a statute is re-enacted or revised after it has received judicial construction, it is presumed that the legislature intended that construction to continue."[18]

Thus, this Court does not agree with petitioner that its Mega Savings Deposit is nothing like a regular savings account. The only similarity between the two is that in both types of account, the deposit is evidenced by a passbook. In a regular savings account, the depositor is not made to agree to

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[18] *Banco de Oro Universal Bank vs. Commissioner of Internal Revenue*, CTA E.B. No. 39, October 28, 2005.

a holding period in exchange for a higher yield of interest rate. Here, the interest rate is fixed irrespective of the number of withdrawals made by the depositor at any given time so long as such withdrawals may be supported by the existing deposit balance. In the Mega Savings Deposit, partial withdrawals prior to the cut-off date or the expiration of the holding period is allowed. However, such partial withdrawal results to an interest rate equivalent to that of a regular savings deposit or a reduction of the interest rate agreed upon to fifty to seventy five (50-75%) percent depending on when exactly during the holding period such withdrawal was made. Petitioner's witness, Peter S. Lo, testified that the depositor will earn fifty (50%) percent of the agreed upon preferred interest if he withdraws from his Mega Savings Account between the 8th and 15th of the 30-day holding period and 75% percent of the agreed preferred interest if the withdrawal was made between the 16th and 29th of the holding period. If withdrawals were made within the 1st to the 7th day from the time a depositor opens a Mega Savings Deposit account, the interest rate will be equivalent to that of a regular savings account. This reduction of agreed preferred interest is more in keeping with the nature of effects of a pre-termination of a Time Deposit.

In contrast, this Court finds that petitioner's Mega Savings Deposit is akin to a Time Deposit. In both cases, there is a holding period for the deposit and such deposit may be withdrawn at anytime but the depositor gets to earn a lower interest rate than that agreed upon, the only difference is the evidence of deposit. The former is evidenced by a passbook and the other by a certificate. The Supreme Court, in *Far East Bank and Trust Company vs.*

Estrella O. Querimit,[19] has defined a "certificate of deposit" as a written acknowledgment by a bank or banker of the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor or to some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created. Petitioner's Mega Savings Deposit is in essence of the same nature and substance as that of a certificate of deposit. It matters not that this kind of deposit is evidenced by a passbook and not by a certificate. What is important and controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as its substance is paramount than its form.[20]

A documentary stamp tax is in the nature of an excise tax upon documents, instruments, loan agreements and papers, and upon acceptances, assignments, sales, and transfers of the obligation, right or property incident thereto.[21] It is not imposed upon the business transacted but is an excise upon the privilege, opportunity or facility offered at exchanges for the transaction of the business.[22] The DST is levied on the document itself, it is not intended to be a tax on the document alone. Rather, the DST is levied on the exercise of a privilege of conducting a particular business or transaction through the execution of specific instruments or documents.[23]

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[19] G.R. No. 148582, January 16, 2002.
[20] *Banco de Oro Universal Bank vs. Commissioner of Internal Revenue*, CTA Case No. 6401, September 19, 2005; CTA En Banc No. 165, August 6, 2006
[21] Vitug and Acosta, *Tax Law and Jurisprudence*, 2nd Ed., 2003, p. 274
[22] *Ibid.*
[23] *Phil. Home Assurance Corp. vs. Court of Appeals*, G.R. No. 119446, January 21, 1999.

In the recent case of *Banco de Oro Universal Bank vs. Commissioner of Internal Revenue, G.R. No. 173602, January 15, 2007,* the Supreme Court affirmed the position of this Court anent special savings deposit. It resolved that:

> "The CTA *en banc* likewise declared that in practice, a time deposit transaction is covered by a certificate of deposit while petitioner's ISA transaction is through a passbook. Despite the differences in the form of the documents, the CTA *en banc* ruled that a time deposit and ISA have essentially the same attributes and feature. It explained that like time deposit, ISA transactions bear a fixed term or maturity because the bank acknowledges receipt of a sum of money on deposit which the bank promises to pay the depositor, bearer or to the order of a bearer on a specified period of time. Section 180 of the 1997 NIRC does not prescribe the form of a certificate of deposit. It may be any 'written acknowledgment by a bank of the receipt of money on deposit.' The definition of a certificate of deposit is all encompassing to include a savings account deposit such as ISA.
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> As we see it, even without the technical lapse earlier observed in Our October 9, 2006 resolution, the petition must still be denied, there being **no reversible error** committed by the CTA *en banc*.
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> Dedicated exclusively to the study and consideration of tax problems, the CTA has necessarily developed an expertise in the subject of taxation that this Court has recognized time and again. For this reason, the findings of fact of a division of the CTA, particularly when affirmed *en* banc, are generally conclusive on this Court absent grave abuse of discretion or palpable error, which are not present in this case." (Emphasis Supplied)

The Supreme Court likewise affirmed this Court's ruling on special savings deposit, similar to petitioner's Mega Savings Deposit, in *International Exchange Bank vs. Commissioner of Internal Revenue.*[24]

Thus, respondent is correct in imposing deficiency documentary stamp tax on petitioner's Mega Savings Deposit. Tax laws shall not be allowed to be

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[24] G.R. No. 171266, April 4, 2007.

circumvented by various arrangements and schemes in order to evade the payment of just taxes.[25]

As regards the issues on RMC No. 16-2003. Basic is the rule that revenue memorandum circulars are considered administrative rulings, which are issued from time to time by the Commissioner of Internal Revenue. The interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts.[26] In the present case, RMC No. 16-2003 defined the term "Certificate of Deposit" and enumerated the essential elements of a certificate of deposit. It is aimed to put to rest all doubts regarding the definition and scope of a "certificate of deposit". Hence, it neither amended nor supplanted Section 180 of the 1997 Tax Code.

This Court must point out that the basis of petitioner's liability for deficiency documentary stamp tax is Section 180 of the 1997 Tax Code, not RMC No. 16-2003. Hence, RMC No. 16-2003 was not applied when respondent assessed petitioner for deficiency documentary stamp tax.

WHEREFORE, the Petition for Review is hereby **DISMISSED** for lack of merit and the Final Decision of respondent dated March 10, 2004 is affirmed with some modifications. The compromise penalty of ₱25, 000.00 imposed by respondent is ordered cancelled there being no mutual agreement arrived at between the parties.[27]

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[25] *Commissioner of Internal Revenue vs. Lincoln Philippine Life Insurance Co., Inc.*, G.R. No. 119176, March 19, 2002.
[26] Vitug and Acosta, *Tax Law and Jurisprudence*, 2nd ed., p. 57.
[27] *United Overseas Bank Philippines vs. Commissioner of Internal Revenue*, CTA Case No. 6978, July 31, 2006.

Accordingly, that petitioner be ordered to pay respondent the amount of ₱74, 606,086.79 representing deficiency documentary stamp taxes for the taxable year 1999, computed as follows:

Special Savings Deposit (Mega Savings Deposit)	₱ 29,637,344,296.05
Documentary Stamp Tax Due	44,456,016.44
Basic DST due	44,456,016.44
Add: 20% interest from 1-11-00 to 5-31-03	30,150,070.35
Total Documentary Stamp Tax Due	**₱ 74,606,086.79**

In addition, petitioner is **ORDERED TO PAY** 20% delinquency interest on ₱74, 606,086.79, computed from April 19, 2004 until full payment thereof pursuant to Section 249 (C) of the Tax Code.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice

210