REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

****

SOLIDBANK CORPORATION (now FIRST METRO INVESTMENT CORPORATION),
Petitioner,

C.T.A. CASE NO. 6889

Members:

- versus -

ACOSTA, *Chairman*
BAUTISTA, and
CASANOVA, *JJ.*

HON. GUILLERMO L PARAYNO, JR., in his Capacity as the Commissioner of Internal Revenue and Bureau of Internal Revenue,
Respondent.

Promulgated:

MAR 2 8 2006

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DECISION

BAUTISTA, L., J.:

This case assails the Decision of respondent Commissioner of Internal Revenue dated 27 November 2003 denying the protest of petitioner and demanding payment in the amount of ₱7,496,690.47 representing deficiency documentary stamp tax for the year 1999.

The pertinent facts of the case as culled from the records are as follows:

Petitioner is a corporation duly organized and existing under the laws of the Philippines, with business address at the 20th Floor, G.T. Tower International, Ayala Avenue corner H.V. de la Costa Street, Makati City. Respondents Commissioner of Internal Revenue and Bureau of Internal Revenue are the government official and bureau respectively

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charged with the duty of assessing and collecting taxes on documentary stamps, among others.

On September 11, 2002, petitioner received from respondent bureau a Formal Letter of Demand (Assessment No. DST-99-000019) assessing it of deficiency documentary stamp tax on its Solid Savings Plus Accounts (SSPAs) in the amount of P7,496,690.47 for the taxable year 1999 dated August 28, 2002.

On September 24, 2002, petitioner administratively protested the said assessment which respondent Commissioner denied in his Decision dated November 27, 2003 and received by petitioner on February 11, 2004.[1]

On 29 January 2004, petitioner received from respondents a Final Notice Before Seizure dated January 20, 2004 reiterating the demand for the payment of deficiency documentary stamp tax for the year 1999 under Assessment Notice No. DST 99-000016.

Hence, this Petition for Review filed on March 12, 2004.

On April 27, 2004, respondent Commissioner filed his Answer interposing the following Special and Affirmative Defenses:

> "xxx xxx xxx
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> 14. Petitioner's SSPAs 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 of the Philippines vs. CIR, CTA Case NO. 6421, April 21, 2004).
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> 15. 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 documents subject to DST. Said the Court:
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> 'A perusal of Section 180 of the Tax Code will show that it is *[sic]* 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.'
>
> 16. 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

[1] Joint Stipulation of Facts par. 1.14, page 150, Records

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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).

17. Fragmenting the essential elements of the aforestated definition, it can be inferred that a certificate of deposit presupposes:

1. That a bank receives money on deposit;
2. From someone who is considered a 'depositor';
3. That the bank acknowledges receipt of the deposit in writing;
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, SSPA of petitioner is unmistakably a 'certificate of deposit' for which taxability to DST lies.

18. The 'certificate of deposit' stated in Section 180 does not prescribe any particular form. The fact that the SSPA 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 SSPA. 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.

19. Assuming arguendo that the SSPA 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. 529; Integrated Realty Corp. vs. PNB, 124 SCRA 295). As such, it is subject to DST under Section 180 of the Tax Code.

20. 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."

On December 6, 2005 and January 9, 2006, respondent Commissioner and petitioner filed their respective Memoranda. Accordingly, the case was submitted for decision on January 26, 2006.

The parties stipulated on the following issues for the resolution of the Court:

"2.1. Whether or not respondent Commissioner committed reversible error in upholding respondent BIR's Assessment No. DST 99-000019 dated 28 August 2002.

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2.2. Whether or not petitioner is liable for the amount of ₱7,496,690.47 representing deficiency documentary stamp tax for the taxable year 1999.

2.3. Whether or not petitioner's SSPA, in the form of a passbook, is subject to documentary stamp tax under Section 180 of the NIRC.

2.4. Whether Section 180 of the NIRC is a tax imposed on the transaction or a tax imposed on the document.

2.5. Whether or not petitioner's SSPA is a certificate of deposit, or akin thereto.

2.6. Whether or not petitioner's SSPA is a special savings account, akin to a regular savings account.

2.7. Whether or not the enactment of Republic Act No. 9243 xxx is an admission on the part of Congress that prior to the enactment of said law, petitioner's SSPA was never subject to the documentary stamp tax under Section 180 of the NIRC.

2.8. Whether or not petitioner was claiming an exemption from Section 180 of the NIRC."

Petitioner submits that respondent Commissioner's Decision finding it liable for deficiency DST is contrary to law based on the following:

First, Section 180 of the National Internal Revenue Code does not subject the SSPA Passbook to documentary stamp tax.

Second, Congress admitted that petitioner's SSPA was not within the ambit of Section 180 of the NIRC.

Third, Section 180 of the NIRC is a tax imposed on the document and not on the transaction.

Fourth, petitioner's SSPA is not akin to a certificate of deposit.

Fifth, respondents are barred from claiming that documentary stamp tax due on loan agreements is imposable on SSPA.

Moreover, petitioner claims that the features of the SSPA show that it is akin to a regular savings account because:

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I. Both bank products share similar procedure and documentary requirements in opening account;

II. Both bank products are evidenced by passbooks;

III. These passbooks contain similar items and transactions;

IV. Both these account do not state any interest rate and maturity date;

V. Both products share the same procedure in depositing and withdrawing;

VI. Both bank products share similar procedure in closing the account;

VII. Both are subjected to the same withholding tax of 20% on interest income;

VIII. Both are reported in petitioner's audited financial statement as "savings deposits"; and

IX. Both bank products are reported to the Bangko Sentral ng Pilipinas as "savings deposits".

Thus, petitioner's SSPA cannot be considered a "certificate of deposit" as defined by law.

On the other hand, respondent Commissioner maintains that the assessment against petitioner for deficiency documentary stamp tax is consistent with the Section 180 of the NIRC. He posits that what is being taxed under Section 180 are not just time deposits but certificates of deposit. According to him, a certificate of deposit should not be construed as synonymous to a time deposit, the latter being mere a genus or sample of the former. Further, if the substantial features of petitioner's SSPA would be taken into account it is nothing more than a time deposit "written on a passbook".

Is petitioner's Solid Savings Plus Account (SSPA) subject to documentary stamp tax as a certificate of deposit under Section 180 of the National Internal Revenue Code? The Court holds that it is.

Section 180 of the National Internal Revenue Code of 1997 provides:

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"**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 Others 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 (P0.30) 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, 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."* (Emphasis and Underlining Supplied)

It is clear from the above provision of Section 180 that it covers the following:

1. bonds,
2. loan agreements,
3. instruments and securities issued by the Government or any of its instrumentalities,
4. deposit substitute debt instruments,
5. certificates of deposits drawing interest,
6. orders for the payment of any sum of money otherwise than at sight or on demand,
7. promissory notes.

A "certificate of deposit" 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 ***(Re: Olson's Estate, 206 Iowa, 706, 219 N.W. 40 cited in Agbayani, Commentaries and Jurisprudence on the Commercial Law of the Philippines, 1989 Ed., p. 441)***. The term is likewise defined as a written acknowledgment by a bank

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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 ***(Far East Bank and Trust Company vs. Querimit, 373 SCRA 665)***.

"Time deposit" is also a form of a certificate of deposit, which refers to a deposit account paying interest for a fixed term, with the understanding that funds cannot be withdrawn before maturity without giving advance notice. It is one, the payment of which cannot legally be required within such a specified number of days ***(BPI Family Savings Bank, Inc. vs. First Metro Investment Corporation, 429 SCRA 31)***. In practice, a time deposit is evidenced by a certificate of time deposit. Certificate of deposits or time deposits usually carry penalties for early withdrawal ***(Black's Law Dictionary, 6th Ed.)***.

In other words, not all certificates of deposits are time-deposit certificates but all time-deposit certificates are necessarily certificates of deposits subject to documentary stamp tax.

The issue on the imposition of documentary stamp tax on special savings deposits or in this case, petitioner's Solid Savings Plus Accounts, has been consistently resolved in the affirmative by this Court and upheld by the Court *En Banc*. In ***China Banking Corporation vs. Commissioner of Internal Revenue (CTA EB No. 66 [CTA Case No. 6400], January 3, 2006); Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue (CTA EB No. 83 [CTA Case No. 6201], July 27, 2005); Keppel Bank Philippines, Inc. vs. Commissioner of Internal Revenue (CTA EB No. 38 [CTA Case No. 6560], March 18, 2005);*** and ***United Overseas Bank Philippines vs. Commissioner of Internal Revenue (CTA EB No. 31 [CTA Case No. 6411], March 10, 2005)***, it has been held that the "certificate of deposit" contemplated under Section 180 does not prescribe any particular form, nor does it qualify. As defined

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above, it may be any written acknowledgment by a bank of the receipt of money on deposit.

Records reveal that petitioner's SSPA is also an interest-bearing account. Just like in a time-deposit account, the depositor of an SSPA must maintain a balance of ₱100,000.00 to earn the preferential interest rates higher than that given to a regular savings account. If the balance falls below this maintaining balance, this special savings account earns interest of 2% like that given to a regular savings account.

In fact, on cross-examination during the hearing on October 14, 2004, petitioner admitted that in reality, the SSPA deposit contains a maturity date or holding period of thirty days. This special account earns preferential treatment only when the bank holds the deposit for that period of time. If the SSPA depositor makes a withdrawal prior to this holding period, or if the balance falls below the minimum required, the account earns the same interest rate as that of a regular savings account. It should be noted that the same holds true in the case of a time deposit. A depositor of a time-deposit account is still allowed to withdraw from his time deposit even before its maturity subject only to pre-termination charges, in which case, the depositor loses his entitlement to earn the preferential interest rate corresponding to time deposits. Instead, he earns interest likewise pertaining to a regular savings deposit.

In ***United Overseas Bank Philippines vs. Commissioner of Internal Revenue, CTA EB No. 31 [CTA Case No. 6411], March 10, 2005,*** the Court *En Banc* held in wise:

> "Hence, a traditional passbook, being written acknowledgment of the receipt of money as a deposit which a bank promises to pay to the depositor is a genus of a certificate of deposit, subject to DST under *Section 180 of the National Internal Revenue Code of 1993, as amended.*
>
> We, therefore, find no merit on the claim that the SPA (Savings Plus Account) is but a regular savings account and a different transaction from a time deposit. In petitioner's SPA, the transaction is covered by a special passbook, while in time deposits, it is through a certificate of deposit.

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However, in both cases, the bank acknowledges the receipt of a sum of money on deposit, which the bank promises to pay to the depositor on a specified period of time. Clearly therefore, the SPA has the same substance, attributes and qualities of a certificate of deposit. The fact then that petitioner's Savings Plus Account is evidenced by a special passbook and not by a certificate of deposit is of no moment. 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 *(L.R. Heat Treating Co., 28 TC 874)*" *(Underscoring Ours)*

Further, the Court *En Banc* in ***Allied Banking Corporation vs. Guillermo L. Parayno, Jr., in his official capacity as the Commissioner of Internal Revenue, and Eleanor N. Litao, in her official capacity as Chief, LT-Collection and Enforcement Division, Bureau of Internal Revenue, CTA EB No. 69 [CTA Case No. 6565], July 11, 2005*** stressed:

"To reiterate, petitioner cannot hide behind mere terminologies to escape from its tax responsibility to the government. What is vital to petitioner's case are the surrounding circumstances capable of overturning the same.

It may be true that a depositor of petitioner's market savings deposit may make a withdrawal at anytime without having to give notice to the petitioner, and unlike that of a time deposit, its market savings deposit does not penalize the depositor but rather offers an incentive for maintaining the deposit for a longer period of time. It is not incomprehensible to conclude that offering an incentive to a depositor for something he has to do is the opposite of penalizing him for something that he ought not to do. In the case of petitioner's market savings deposit, petitioner contends that there is no penalty to speak of considering that the depositor is not obliged to maintain his investment for a specified period of time. Petitioner asserts that there is only an incentive offered to the depositor in cases when he decides to maintain his deposit for a longer period of time. However, in contradiction, petitioner's witness also testified that the depositor, at the beginning of his deposit, is made to agree or choose a period within which he should maintain his deposit *(pp. 20-22, Transcript of Records, August 1, 2003)*. By obligating the depositor to choose or agree to a specified period of time within which to maintain his deposit is the same as giving him a maturity date. It is as simple as providing a higher rate of interest if the depositor lets his money stay longer with the bank, that is, giving a maturity date, but, reducing said interest rate to a minimum in case the depositor decides to withdraw his money, or preterminating the said account. The issue on the subject 'penalty' is clear. In both the time deposit and petitioner's market savings deposit accounts, the depositor gets to withdraw his money anytime before the specified term, however, a lower rate of interest is given. The mere fact that a different or a lower rate of interest is

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given to the depositor in case where he withdraws his money prior to the expiration of the specified period, is a clear case of penalizing the depositor for something he ought not to do.

Further, petitioner's argument that there is no acknowledgment of the receipt of the money or funds on deposit in case of its market savings deposit is untenable. Again, <u>it must be emphasized that for its market savings deposit, it issues a passbook stating the amount of the deposit, the date, the interest and the balance as well as the transaction code which is obviously for the bank's use. The mere fact that it is the bank which prints or types these figures and data, is enough acknowledgment of the funds received from the depositor</u>." *(Underscoring Ours)*

Applying the foregoing jurisprudence, it is quite clear that for all intents and purposes, petitioner's SSPA is deemed to be of the same nature and substance as that of a certificate of deposit bearing interest. Hence, the Court rules that said special savings account, even if evidenced by a passbook, is subject to DST in accordance with Section 180 of the 1997 NIRC, as amended.

As regards petitioner's argument that the Congress admitted that its SSPA was not within the ambit of Section 180, the same is misplaced. The amendment made on the provision on documentary stamp tax was made precisely to settle the issue of the taxability of all forms of time deposits. It was made so as not to further misinterpret the said provision. ***(Keppel Bank Philippines, Inc.. vs. Commissioner of Internal Revenue, CTA EB No. 38 [CTA Case No. 6560], March 18, 2005)***

Moreover, while it is true that 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 ***(Phil. Home Assurance Corp. vs. Court of Appeals, 301 SCRA 443 [1999])***. It bears stressing that in determining whether a certain instrument is subject to documentary stamp tax, substance would control over the form and label. ***(Knudsa Creamery Co. of California vs. US, 121 F. Suppl. 860, 26 U.S. C.A. 1800, 1801***).

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However, the Court finds that there being no mutual agreement reached by the parties, the imposition of any compromise penalty on petitioner is improper ***(Collector of Internal Revenue vs. UST, 104 Phil. 1062; Commissioner of Internal Revenue vs. Lianga Bay Logging Co., Inc. G.R. No. 35266, January 21, 1991).***

IN VIEW OF THE FOREGOING, the Petition for Review is hereby **DENIED**. The subject Decision of the respondent Commissioner of Internal Revenue dated November 27, 2003 assessing petitioner of deficiency documentary stamp tax is hereby **AFFIRMED**.

Accordingly, petitioner is hereby **ORDERED to PAY** the respondents the reduced amount of P7,471,690.47 [P7,496,690.47 - P25,000.00 (compromise penalty)] plus 25% surcharge and 20% delinquency interest from March 13, 2004 until fully paid pursuant to Sections 248 and 249 of the National Internal Revenue Code of 1997.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

(With Dissenting Opinion)
CAESAR A. CASANOVA
Associate Justice

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division

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COURT OF TAX APPEALS
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FIRST DIVISION

SOLIDBANK CORPORATION (now FIRST METRO INVESTMENT CORPORATION),
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-versus-

HON. GUILLERMO L. PARAYNO, JR.,
In his official capacity as the COMMISSIONER OF INTERNAL REVENUE, and the BUREAU OF INTERNAL REVENUE,
Respondents.

CTA CASE No.6889
Members:
ACOSTA, *Chairman*
BAUTISTA, *and*
CASANOVA, *JJ.*

Promulgated:

MAR 28 2006

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Dissenting Opinion

With due respect to my esteemed colleagues, I am dissenting with the majority opinion in holding petitioner Solidbank Corporation liable for Deficiency Documentary Stamp Tax on its Solid Savings Plus Accounts (**SSPA**).

It is my opinion that the **SSPA**, unlike a time deposit, has no holding period or maturity date in order to avail a higher interest. A time deposit has a maturity date wherein the parties mutually agree that the bank will pay the depositor the stipulated interest rate only upon the expiration of a definite, fixed and predetermined date. The depositor in a time deposit is bound by the maturity date agreed upon; otherwise, he or she will be penalized by not receiving the high interest as stated in the certificate of deposit. In contrast, **SSPA** has no maturity date. The period offered to a prospective **SSPA** depositor is a length of time provided in a schedule of placement, for which a

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corresponding rate is given. Still, the depositor is at liberty to withdraw his or her deposit at any time upon the presentation of his or her passbook.

SSPA is an innovative product offered by the petitioner to its clients. It is a crossbreed between a regular savings deposit and a time deposit and as such, it contains essential features of both products. This new product offers higher interest rates upon certain conditions similar to a time deposit, but this does not automatically classify it as such.

From the text of Section 180 of the Tax Code, a "certificate of deposit" subject to DST must have the features of a time deposit. A "time deposit", is another term for a savings account or certificate of deposit in a commercial bank. It is so called because in theory (though no longer in practice) a person must wait a certain amount of time after notice of desire to withdraw part or all of his or her savings. Certificates of deposits usually carry penalties for early withdrawal. Cash in a bank earning interest; contrast with demand deposit (*Black's Law Dictionary, 6th Edition*). Thus, it is incorrect for the respondent to conclude that **SSPA** falls within the definition of a "certificate of deposit" to make it liable for DST.

In a Supreme Court decision, it was held that:

> "The Court takes this occasion to reiterate the hornbook doctrine in the interpretation of the tax laws that "(a) statute will not be construed as imposing a tax unless it does so clearly, expressly, and unambiguously. Xxx (a) tax cannot be imposed without clear and express words for that purpose. Accordingly, the general rule of requiring adherence to the letter in construing statutes applies with peculiar strictness to tax laws and the provisions of a taxing act are not to be extended by implication. Parenthetically, in answering the question of who is subject to tax statutes, it is basic that "in case of doubt, such statutes are to be construed most strongly against the government and in favor of the subject citizens because burdens are not to be imposed nor presumed to be imposed beyond what statutes expressly and clearly import." (*CIR vs. Court of Appeals, Court of Tax Appeals and Ateneo de Manila, 271 SCRA 605*)

There must be a law or legislative enactment that mandates the imposition of any tax in order for it to be due and demandable. The legislative intent behind Section 180 of the Tax Code is to include time deposits only as

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those liable for DST. It is through the introduction of **SSPA** and similar transactions by the banking industry that Congress deemed it necessary to enact a new law to specifically cover the said product within the purview of said law.

Republic Act # 9243, "An Act Rationalizing the Provisions of the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes" was enacted into law on February 17, 2004. Section 5 of the said law reads, as follows:

> "**SEC. 5.** Section 180 of the National Internal Revenue Code of 1997, as amended, is hereby renumbered as Section 179 and further amended to read as follows:
>
> 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 (P1.00) on each Two hundred pesos (P200), or a 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.
>
> For purposes of this section, the term debt instrument shall mean instruments representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements including those signed abroad wherein the object of contract is located or used in the Philippines, instruments and securities issued by the government or any of its instrumentalities, deposit substitute debt instrument, <u>certificates or other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved or drawing interest and having a specific maturity date</u>, orders for payment of any sum of money otherwise than at sight or on demand, promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation."

The above-cited law clearly subjects to DST not only time deposits but also *other evidences of deposits that are drawing interest significantly higher than the regular savings deposit taking into consideration the size of deposit and the risks involved.* Under this provision, bank deposits drawing interest higher than the regular savings rate, even though the same may be withdrawn anytime, are subject to DST. The enactment of Section 5 of RA # 9243 settled the conflict between the Office of the Commissioner of Internal Revenue and the banking industry with regard to the imposition of DST on **SSPA** and similar transactions. The fact that Congress amended Section 180 of the Tax Code shows that the old law was inapplicable to the instant case. There was no law before the passage of RA # 9243 subjecting the **SSPA** of the petitioner to DST.

WHEREFORE, premises considered, I vote to **GRANT** the Petition for Review.

CAESAR A. CASANOVA
Associate Justice

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