REVENUE MEMORANDUM CIRCULAR NO. 49-2010 issued on June 7, 2010 amends certain portions of Revenue Memorandum Circular (RMC) No. 30-2008, as amended by RMC No. 59-2008 relative to the taxability of insurance companies for Minimum Corporate Income Tax, Business Tax and Documentary Stamp Tax (DST) purposes.

The main revenue generated by the life insurance companies from their principal activity of doing life insurance is the premiums received from their policyholders. For the premiums received, the same are subject to premium tax at the rate of 5% pursuant to Section 123 of the Tax Code, as amended.

The premium on Health and Accident Insurance, whether received by a life or non-life insurance company, shall be considered as premium on life insurance and, therefore, likewise subject to Premium Tax and not Value-Added Tax (VAT).

Management fees, rental income, or any other income earned by the life insurance company from services which can be pursued independently of the insurance business activity are not subject to the 5% Premium Tax imposed under Section 123 of the Tax Code, as amended, but rather, the same are treated as income for services that are subject to the imposition of VAT pursuant to Section 108 of the same Code, or to the Percentage Tax imposed under Section 116 of the same Code, as the case may be.

Re-issuance fees, reinstatement fees, renewal fees as well as penalties paid to the life insurance company which are incidental to or in connection with the insurance policy contracts issued are considered akin to premiums, thus, such types of income are covered by Section 123 of the Tax Code and are subject to the 5% Premium Tax for the gross amount received on such fees and/or penalties.

The investment income earned by the life insurance companies from investing the premiums received in marketable securities, bonds and other financial instruments is considered exempt from the further imposition of business tax since the premiums which have been the source of the funds invested had already been subject to the imposition of the 5% Premium Tax imposed by Section 123 of the Tax Code.

If these investment activities have been allowed and approved by the Insurance Commission, the same are considered as incidental activities to the main activity and, therefore, are subject to the 5% Premium Tax pursuant to Section 123 of the Tax Code.

For group insurance policies issued, the premium collected therefrom shall be subject to Section 183 of the Tax Code. For individual certificates issued to each and every employee covered by the group insurance policy, considering that these individual certificates are separate and distinct from the issued group insurance policy, Documentary Stamp Tax is imposed pursuant to Section 188 of the Tax Code.

For performing a quasi-banking activity similar to banks insofar as Premium Deposit Fund (PDF) is concerned, life insurance companies should be subject to the gross receipts tax imposed under Section 121 of the Tax Code, as amended, on the income earned by the life insurance company in investing these deposits obtained from this type of product.

The investment income earned by the insurance company from the investment activities using the fund, being earned from an activity that has been authorized and approved by the Insurance Commission, in addition to the Income Tax imposed by Title II of the Tax Code, as amended, is subject to the business tax imposed on its main activity of life insurance business. Thus, such income is subject to the 5% Premium Tax imposed under Section 123 of the Tax Code, as amended. Having no fixed term or period, whereby these deposits can be withdrawn anytime at the option of the policyholder, the instrument issued to the policyholder evidencing such deposits is exempt from the imposition of Documentary Stamp Tax. The interest earned by the policyholder from the PDF shall not be subject to the 20% final Withholding Tax as the same has already been subjected to final tax as part of investment.