REVENUE REGULATIONS NO. 15-2013 issued on September 20, 2013 implements 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.”

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 (GPB) Tax of 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.’

In computing for GPB 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 GPB 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 GPB 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 GPB 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 International Air Transport Association 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 GPB.

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 GPB 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 GPB shall be determined based on that portion of flight from the Philippines up to the point of said transshipment.

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 those specified in the Regulations, 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.

In computing for GPB 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.

In proper cases, the domestic shipping agent shall apply for a Taxpayer Identification Number (TIN) for 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.

Non-revenue passengers of international air and sea carriers 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 GPB.

A Statement of GPB 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) of these Regulations to arrive at the Taxable GPB, and the GPB rate used in arriving at the tax due for the quarter/year shall be attached to the quarterly and annual GPB returns, to be filed by international carriers. The Audited Financial Statements shall also be attached to the annual GPB returns even in cases of no-payment returns due to tax exemption.
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 based on the principle of reciprocity or applicable tax treaty or international agreement 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 $1.5\%$ 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 (Guidelines on the Processing of Tax Treaty Relief Applications (TTRA) Pursuant to Existing Philippine Tax Treaties). Accordingly, a 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.

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.

The principle of reciprocity may be invoked by an international carrier as basis for GPB 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 procedures to be observed in order to avail exemption from GPB Tax on the basis of “reciprocity” are specified in these Regulations.

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 GPB 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.

All items of income derived by international carriers that do not form part of GPB, 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.

International air carriers and 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 3% of their quarterly gross receipts pursuant to Section 118 of the NIRC, as amended by RA No. 10378.

For purposes of determining the said Common Carrier’s Tax liability of international carriers, “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 GPB Tax provided for in Section 28(A)(3) of the NIRC, as amended, is not applicable, the Common Carrier’s Tax 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 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.

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.

International carriers, through their authorized personnel or representative, shall submit to International Tax Affair Division a sworn certification stating that there is no change in the domestic laws of its Home Country granting Income Tax exemption to Philippine carriers. 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 GPB Tax exemption on the basis of reciprocity. Failure to submit the sworn certification shall be a ground for the revocation of such ruling.