

[BIR REVENUE MEMORANDUM CIRCULAR NO. 79-2014, October 31, 2014]

**CLARIFYING THE TAX TREATMENT OF STOCK OPTION PLANS
AND OTHER OPTION PLANS**

*Adopted: 31 October 2014
Date Filed: 12 December 2014*

A. BACKGROUND

A stock option is an option granted by a person, natural or juridical, to a person or entity entitling said person or entity to purchase shares of stocks of a corporation, which may or may not be the shares of stock of the grantor itself, at a specific price to be exercised at a specific date or period (hereinafter referred to as "Equity-settlement Option"). It may also occur even if no actual shares of stocks are transferred in a situation wherein a person or entity is given the right to obtain the difference between the actual fair market value of a shares and the fixed nominal value of the shares of stock set in the grant of the option, at a specific date or period, although no actual shares of stocks are transferred (hereinafter referred to as "Cash-settlement Option"). The grant, sale, transfer, or exercise of the option may result to taxable events.

Stock option are "shares of stocks" as defined by Section 22 (L) of the National Internal Revenue Code of 1997, as amended, and are taxable as such.

B. TAX TREATMENT

1. Grant of Option

In the event the Option was granted due to an employee-employer relationship, and where the grantor is the employer and the grantee is the employee, and no payment was received for the grant of the said option, on the year an option was granted, the grantor cannot claim deductions for the grant of the stock option. However, if the option was granted for a price, the full price of the option shall be considered capital gains, and shall be taxed as such.

Upon the issuance of the Option, the same is subject to a documentary stamp tax amounting to Seventy-five centavos (P0.75) on each Two Hundred pesos (P200), or fractional part thereof, of the par value of the stock subject of the option, or in the case of stock without par value the amount equivalent to twenty-five percent (25%) of the documentary stamp tax paid upon the original issue of the stock subject of the option, as provided for in Section. 175 of the National Internal Revenue Code of 1997, as amended.

2. Sale or Transfer of Option