[BIR REVENUE MEMORANDUM CIRCULAR NO. 14-2002, APRIL 10, 2002, April 10, 2002]

PRESCRIBING THE PROCEDURES FOR THE MANNER OF FILING OF TAX RETURNS FOR INCOME DERIVED BY FOREIGN CURRENCY DEPOSIT UNITS FROM FOREIGN CURRENCY AND OTHER TRANSACTIONS AND THE MANNER OF REPORTING THEIR INCOME FOR INCOME TAX PURPOSES PURSUANT TO SECTION 27(D)(3) AND 28(A)(7)(B) OF THE TAX CODE

SECTION 1. Background. — In an effort to clean up the registration system of the BIR on the use or issuance of multiple TINs, the policy and procedure hereby established is for taxpayers to be assigned with only one Taxpayer Identification Number (TIN) and to cancel other previous TIN that had been issued. The current TIN assigned shall be used by the taxpayer in the filing of returns and in his payment of taxes. Likewise, it is required that only one (1) income tax return shall be filed by the taxpayer in reporting his income for a taxable year.

However, this procedure may not necessarily be suited in the conduct of activities by banks which perform regular banking activities and at the same time have Foreign Currency Deposit Units (FCDUs) dealing in foreign currency transactions.

While the FCDU is considered not as a branch but just a unit or division of the Bank, the taxability of the transactions undertaken by this Unit differs from activities conducted by the bank's Regular Banking Unit (RBU). Hence, a bank which is authorized to operate an FCDU is considered for income tax purposes to have dual tax status. As a matter of fact, the FCDU is considered as a separate taxable unit under Revenue Regulations No. 10-98.

The income of the bank from its RBU is subject to the normal income tax rate or MCIT, as the case may be, under Section 27 or 28 of the Tax Code of 1997. However; income derived under the Expanded Foreign Currency Deposit System from foreign currency transactions with local commercial banks including branches of foreign banks authorized by Bangko Sentral ng Pilipinas (BSP) to transact business with FCDUs and other depository banks under the expanded foreign currency deposit system, including interest income from foreign currency loans granted by FCDUs to residents are subject to a final tax at the rate of ten percent (10%) of such income pursuant to Sec. 27(D)(3) and 28(A)(7)(b) of the Code while other FDCU income which could not be classified as either onshore or offshore is subject to the normal income tax rate under Section 27(A) or E, or 28(A)(1) or (2), as the case may be.

In order to distinguish the FCDU transactions from the RBU transactions of the Bank, the current regulations require banks to file an income tax return exclusively for its RBU transactions and another income tax return covering its FCDU transactions income subject to the 10% rate and other income of the FCDU subject

to the regular corporate income tax rate, as described in the preceding paragraph, for the same taxable year.

However, with the implementation of the Integrated Tax System (ITS) and the policy of "one TIN and one income tax return per taxpayer", this practice has caused the suspension of FCDU returns in the systems, or if not, has triggered unnecessary systems-generated assessment notices due to the difference in the tax treatment and rate which can not be distinguished by the system.

In view of the problem encountered in the processing of FCDU returns in the ITS, this Circular is, thus, hereby issued in order to clarify the need for the issuance of an additional TIN to banks with FCDUs and provide for procedures for the issuance thereof, as well as further elucidate the manner of filing of tax returns for income derived by FCDUs from foreign currency transactions and their other income, and the manner of reporting the same for income tax purposes.

SECTION 2. On the Manner of Issuance of Taxpayer Identification Number (TIN). — A new and separate TIN shall be issued by the Bureau to depository banks with Foreign Currency Deposit Unit to be used by the FCDU in connection with FCDU income (whether income subject to the 10% rate or other income subject to the regular corporate income tax rate). The existing TINs currently used by the said banks shall be valid on all their tax transactions/payments derived by their RBUs. In fine, a depository bank with a Foreign Currency Deposit Unit shall from hereon, be a holder of two (2) TINs, one for the RBU income, the other one, for the FCDU income.

For the purpose of facilitating the filing as well as the processing of the income tax returns of all depository banks with FDCUs this coming April 15, 2002, the Large Taxpayers Assistance Division I of the National Office, shall automatically issue another TIN to these banks without the need for them to apply and shall be notified of their additional TIN on or before April 15, 2002.

SECTION 3. On the Manner of Filing Returns and Paying the Tax Due Thereon. — Within sixty (60) days after the end of each of the first quarters of the calendar or fiscal year, a return of the taxable income derived by the FCDU **shall be filed independently of or separate from the return for income of the RBU,** and the tax due thereon paid, to the AAB/Collection Agent of the Revenue District/BIR Office where the taxpayer is registered or required to be registered within the period prescribed by law. For this purpose BIR Form 1702Q shall be used and the appropriate rate in accordance with Sections 27(D)(3) and 28(A)(7)(b) shall be applied. Pursuant to existing issuances, all other income not classifiable as onshore or offshore income by FCDUs are taxed at the regular income tax rate of thirty two percent (32%) or 2%, as the case may be, which shall be based on the net taxable income/gross income.

A bank with an FCDU must file two (2) income tax returns for the same taxable year but covering the two (2) different types of income, namely, the FCDU income and the RBU income.

In the case of interest income from foreign currency loans granted to residents where the 10% tax has already been withheld in accordance with Section 58 of the Tax Code, where the payor-borrower is constituted as the withholding agent charged