

**[BIR MEMORANDUM CIRCULAR NO. 4-2003,
December 31, 2002]**

**CLARIFYING ITEMS THAT WOULD CONSTITUTE GROSS RECEIPTS
AND COSTS IN DETERMINING "GROSS INCOME" ON SERVICES
FOR THE PURPOSE OF COMPUTING THE MINIMUM CORPORATE
INCOME TAX (MCIT) PURSUANT TO SECTIONS 27(E) AND 28(A)
(2) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997**

This Circular is hereby issued to clarify what items should comprise gross receipts and corresponding cost of services for purposes of computing the gross income on sale of services which shall be the basis of the 2% Minimum Corporate Income Tax (MCIT) imposed under Section 27(E) and Section 28(A)(2) of the National Internal Revenue Code (NIRC) of 1997.

Gross Receipts and Cost of Services Per Industry. — For purposes of applying the MCIT, the 'gross receipts' and 'cost of services' of taxpayers engaged in the following types of services, or any other kind but of a similar nature, shall be determined as follows:

(i) *Banks and non-bank financial intermediaries performing quasi-banking activities* pursuant to Sec. 22(V), (W), and (X) of the NIRC of 1997. Their gross receipts shall mean actual or constructive receipts from interests, commissions, and discounts from lending activities, and all other items treated as gross income under Section 32 of the NIRC of 1997 that are not subject to final withholding income tax. Their cost of services shall refer to those incurred directly and exclusively for the following activities:

01. Lending/investment of funds;
02. Obtaining of funds from the public through the receipt of deposits; and,
03. Trading of foreign exchange and other financial instruments.

and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly engaged in any of the said activities;
02. Interest expense except interest charged by or paid to the head office on funds considered/classified as *assigned capital* of the branch;
03. PDIC premium payments; and,
04. BSP supervision fee.

(ii) *Insurance and pension funding companies* refer to those engaged in life and non-life insurance business as defined under the Insurance Code and pre-need companies, including health maintenance organizations. Their gross receipts shall mean actual or constructive receipts

representing: net retained premiums (gross premiums net of returns, cancellations, and premiums ceded)/gross premium or collection from planholders; membership fees (in the case of HMOs); miscellaneous income; investment income not subject to final tax; *released reserve* and, in the case of pre-need companies, gross withdrawals from the trust funds set up independently as mandated by the Securities and Exchange Commission (SEC); and, all other items treated as gross income under Section 32 of the Tax Code. Their costs of services shall refer to those incurred directly and exclusively in the insurance and pre-need business, including the generation of investment income not subject to final taxes, and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly engaged in said activities;
02. Commissions on direct writings/agents of pre-need companies;
03. Claims, losses, maturities and benefits net of reinsurance recoveries; and,
04. Net additions required by law to reserve fund (for insurance companies) and in the case of pre-need companies, contributions to the trust funds to be set up independently as mandated by the SEC.

(iii) *Finance companies and other financial intermediaries not performing quasi-banking activities* refer to those engaged in the business of extending credit facilities to consumers and to industrial, commercial, or agricultural enterprises, including lending investors. Their gross receipts shall mean actual or constructive receipts representing interests, discounts, and all other items treated as gross income under Section 32 of the NIRC of 1997 that are not subject to final withholding income tax. Their costs of services shall refer to those incurred directly and exclusively in their lending, financing and generating of investment income not subject to final taxes, and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly doing such functions; and,
02. Interest expense.

(iv) *Brokers of securities (excluding banks)*. Their gross receipts shall mean actual or constructive receipts for engaging in the business of effecting transactions in securities for the account of others. Their costs of services shall refer to those incurred directly and exclusively for such activity, and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly engaged in said activities;
02. Philippine Stock Exchange (PSE) terminal fees;
03. Communication charges related to trading/sales of securities;
04. Research fees such as access to Bloomberg and Reuters stock data;
05. Commissions paid to its agents who are not employees of the brokerage firm; and,

06. Settlement/processing costs of trades, commonly known as "exchange dues."

(v) *Customs, insurance, real estate, immigration and commercial brokers.* Their gross receipts shall mean actual or constructive receipts in the form of brokerage fees, commissions and remuneration as such broker. Their costs of services shall refer to those incurred directly and exclusively for brokering activities, and shall be limited to the following:

01. Salaries, wages and other employee benefits of personnel directly engaged in brokering activities; and,
02. Commissions paid to its agents who are not employees of the brokerage firm.

(vi) *General engineering and/or building contractors* refer to those engaged in contracting business in connection with fixed works requiring specialized engineering knowledge and skill (e.g. reclamation works, railroads, highways, streets roads, tunnels, airports), or with any structure built, for the support, shelter and enclosure of persons, animals, chattels, or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereto (e.g. sewers and sewerage, disposal plants and systems, parks, playgrounds, refineries). Their gross receipts shall mean actual or constructive receipts representing the contract price, including the amount charged for materials supplied with the services. Their costs of services shall refer to those incurred directly and exclusively for such activities, and shall be limited to the following:

01. Cost of materials used in construction;
02. Salaries, wages and other employee benefits of site laborers and supervisors;
03. Health insurance, workers compensation and general liability insurance of site laborers and supervisors;
04. Fees and costs paid to sub-contractors;
05. Costs of performance bonds on the particular contract;
06. Depreciation/amortization, rentals, repairs and maintenance of equipment directly used in the said activities;
07. Costs of moving equipment and materials to and from the contract site;
08. Costs of design and technical assistance; and,
09. Supplies and tools directly used in the said activities

(vii) *Common carriers or transportation contractors.* Their gross receipts shall mean actual or constructive receipts for engaging in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public, including transportation contracting (e.g. operation of public utility buses, jeepneys, taxi-cabs and cars-for-rent). Their costs of services shall refer to those incurred directly and exclusively for such activities, and shall be limited to the following: