

[BSP MEMORANDUM CIRCULAR, June 17, 1992]

GUIDELINES ON THE EXEMPTION OF EMPLOYEE'S TRUSTS FROM THE FINAL WITHHOLDING TAX

In accordance with the Supreme Court decision in G.R. No. 95022 entitled "Commissioner of Internal Revenue versus the Court of Appeals, et. als.", promulgated on March 23, 1992, which ruled that employees' trust are exempt from the final withholding tax on interest income from money market placements and purchase of Treasury Bills and following the issuance of a certification by the Deputy Clerk of Court and Chief, Judicial Records Officer of the Supreme Court to the effect that said judgment has, on April 20, 1992 become final and executory and is recorded in the Book of Entries of Judgments, availment of the withholding tax-exemption privilege by employees' trusts in their primary purchase of Treasury Bills at regular weekly auctions either directly by way of non-competitive bids or indirectly through accredited government securities dealers in competitive bidding without being subjected to the 20% final withholding tax shall be governed by the following guidelines:

1. Prior to actual participation in Treasury Bill auctions, the employees' trust shall submit to the Government Securities Department (GSD), the original copy of a definitive ruling from the Bureau of Internal Revenue or a duly certified true copy thereof clarifying its status as an employees' trust together with the following additional documentary requirements:

- a. Rules and regulations governing said Employees' Trust Fund;
- b. Board Resolution duly certified by the Corporate Secretary, authorizing the placements in Treasury Bills and specifying the officers authorized to sign auction tender forms and other pertinent documents; and
- c. List of representatives authorized to retrieve and/or surrender securities from/to the Government Securities Department together with their respective specimen signatures.

2. Competitive tenders submitted through accredited dealers shall not be less than P10 million per tender and should indicate the name of the employees' trust in whose behalf the tender is being submitted. Further, in addition to the dealer's authorized signatories, the competitive tender must likewise bear the "conforme signature" of employees' trust authorized signatory/ies.

3. Non-competitive tenders shall not be less than P1 million and shall be settled in manager's/cashier's check or through bank authorization to debit demand deposit account with the Central Bank;

4. Interim certificates distinctly marked "Tax-Exempt", "Non-Negotiable" and "Non-