

October 13, 2003

TO : All Internal Revenue Officers and Others Concerned

income of the taxpayer, and thus forms part of his gross receipt.”

“XXX

XXX

XXX”

“The gross receipts tax falls not on the final withholding tax, but on the amount of the interest income withheld as the final tax. What is being taxed is still the interest income. The law imposes the gross receipts tax on that portion of the interest income that the depository bank withholds and remits to the government. Consequently, the entire amount of the interest income is taxable and not only the net interest income. Moreover, whenever the legislature excludes a certain tax from gross receipts, the legislature states so clearly and unequivocally.”

“XXX

XXX

XXX”

“In summary, CBC has failed to point to any specific provision of law allowing the deduction, exemption or exclusion, from its taxable gross receipts, of the amount withheld as final tax. Such amount should therefore form part of CBC’s gross receipts in computing the gross receipts tax.”

“WHEREFORE, the Petition for Review filed by China Banking Corporation in G.R. No. 146749 is DENIED for lack of merit. The Petition for Review filed by the Commissioner of Internal Revenue in G.R. No. 147938 is GRANTED. The assailed decisions and resolutions of the Court of Tax Appeals in CTA Case No. 5405 and those of the Court of Appeals in CA G.R. SP No. 50839 and CA-G.R. SP No. 50790 are SET ASIDE. SO ORDERED.”

All internal revenue officers and employees are hereby enjoined to give this Circular as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue