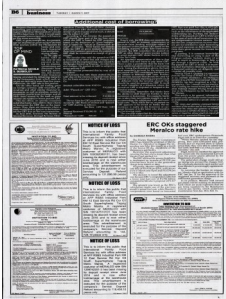


Headline	Additional cost of borrowing?		
MediaTitle	The Philippine Star		
Date	07 Mar 2017	Language	English
Section	Business	Journalist	Patricia Nicole S. Quiboloy
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Additional cost of borrowing?

Benjamin Franklin said: "He who goes a borrowing, goes a sorrowing." With the issuance of Revenue Memorandum Circular 62-2016 dated June 13, 2016, it would seem the general borrowing public will have to go into more sorrowing.

GRT, or gross receipts tax, is a percentage tax imposed on gross receipts derived from sources within the Philippines by

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banks and non-bank financial intermediaries, among others.

In the case of banks, GRT at the rate of one percent is levied on interest, commissions and discounts from lending activities, and income from financial

leasing provided the remaining maturity of the instrument from which such receipts are derived is more than five years. Otherwise, the GRT rate is five percent.

On the other hand, net trading gains on foreign currency, debt securities, derivatives and other similar financial instruments, as well as royalties, rentals of properties, profits from exchange, and all other items treated by the bank as gross income are subject to seven percent GRT.

The tax office, on several occasions ruled that banks may shift to their clients or borrowers the GRT due on the transaction. Thus, there are instances where a bank would shift or pass on to the borrowers the GRT due on the loan transaction.

In June 2016, however, the Bureau of Internal Revenue, through Revenue Mem-

orandum Circular (RMC) 62-2016, clarified that passed-on GRT should be considered as receipt of gross income and as such, it should also be subject to GRT.

According to the circular, the passed-on GRT should form part of the tax base upon which the GRT is based for GRT purposes, based on the definition of "gross receipts," that is based on "actual or constructive receipt" of income. Since banks are directly liable for GRT on gross receipts derived by them from business operations, the passed-on GRT shall be considered as receipt of gross income.

The circular also said the passed-on GRT is considered as other fees and charges consistent with the implementing rules issued by the Bangko Sentral ng Pilipinas. As other fees and charges, the passed-on GRT is subject to seven percent GRT.

The circular presented this by way of illustration:

"(A)ssume that ABC Bank shifted the 5% GRT due on the interest collectible from XYZ Co. for loans extended by ABC Bank to XYZ Co.

Interest collectible from XYZ Co.	P10,000.00
Add: "Passed-on" GRT (5%)	500.00
Total amount to be collected	P10,500.00
	=====

The tax base for GRT purposes upon actual receipt by ABC Bank of interest and "passed-on" GRT shall be as follows:

Tax Base		GRT Rate	GRT
Due			
Interest Received	P10,000.00	5%	
P500.00			
"Passed-on" GRT	500.00		7%

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35.00

Total	P10,500.00
	=====

P535.00
=====

Simply put, the BIR does not consider the passed-on GRT as interest, commission or discount from lending activities subject to one percent or five percent GRT based on the remaining maturity of the debt instrument. Instead, the BIR considers the passed-on GRT as other items of gross income subject to seven percent GRT under Section 121 (C) of the Tax Code.

An apparent repercussion of this is that the banks will now have to pay more GRT. There is also a possibility that the bank will incur additional administrative or accounting work. Using the illustration above, the bank must separately account for the interest and the passed-on GRT considering that these two are subject to different GRT rates. Further, the revenue account that should be used for interest for financial reporting purposes could be different from the revenue account that should be used for passed-on GRT. It could be more complex in a situation where the passed-on GRT is imputed or lumped in the nominal interest.

Nonetheless, remember that banks have the ability to shift their tax burden to their customers or borrowers. For example, banks can widen their net interest margin so as to accommodate the additional GRT and overhead costs. Thus, while the tax on passed-on GRT appears to be levied on banks, the tax incidence is really on the borrower or customer because it is the latter who shoulders the borrowing costs.

The circular states that the borrower can claim as a deductible expense the passed-on

GRT that was paid but this is still subject to the requirements of deductibility such as the remittance of the applicable withholding tax. Further, the deductibility of the passed-on GRT is irrelevant in the case of individual borrowers who are compensation income earners. Under the law, compensation income earners are not entitled to claim borrowing costs and expenses as deductible items from their gross income for income tax purposes.

In parting, it is common knowledge that borrowing or *utang* is part of the Filipino culture. Indeed, many of us tend to resort to borrowings to help us get through a financial crisis. So with the passed-on GRT in mind, it is recommended that before obtaining a loan from a financial institution, act diligently and consider all possible costs.

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