

A Review of the Philippine Documentary Stamp Tax on Financial Products and Transactions^{*}

I. INTRODUCTION

Taxes are the lifeblood of any nation. Without taxes, the government would be paralyzed for lack of motive power to activate and operate it. Like any other country, the Philippines imposes a wide variety of taxes, among which is the documentary stamp tax (DST).

The DST is a tax upon documents, instruments, loan agreements and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right, or property incident thereto and in respect of the transaction so had or accomplished. The DST is in the nature of an excise tax. It is levied on the exercise by persons of certain privileges conferred by law for the creation, revision, or termination of specific legal relationships through the execution of specific instruments.

At present, there are 25 major categories of documents/instruments/transactions that are being taxed at varying rates under Sections 174 to 198 of the National Internal Revenue Code (NIRC) of 1997, as amended. The latest amendment was done through Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) that took effect in January 2018, which doubled the majority of the rates to raise additional revenue. However, there are certain documents/instruments/transactions that are exempt under Section 199 of the same Tax Code which likewise need to be reviewed.

This paper provides basic information on the present DST structure and recommend some amendments to simplify the DST structure and enhance equity in the tax system. This could serve as inputs to fiscal policymakers in their review/assessment of Package 4 on capital income and financial intermediary taxation of the Comprehensive Tax Reform Program of the Department of Finance.

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II. HISTORICAL CHANGES IN THE DST RATES

The initial codification of the DST was done upon the effectivity of Act No. 1189¹ on August 1, 1904. The DST, then referred to as the Stamp Tax (ST), was imposed on 18 major categories of documents/instruments/transactions. In 1939, Commonwealth Act (CA) No. 466², repealed the old law and renamed the ST as DST. The major categories of documents/instruments/ transactions that were subject to the DST were increased to 24, which were more or less similar to the current DST structure.

Through the years, various laws further changed the DST structure which paved the way to higher DST rates and expanded its coverage but at the same time increased the number of exemptions, viz: Republic Act (RA) No. 40³ in 1946, RA 567⁴ in 1950, RA 1980⁵ in 1957, RA 6110⁶ in 1969, and Presidential Decree (PD) No. 69⁷ in 1972.

In 1977, PD 1158⁸ consolidated and codified all internal revenue laws of the Philippines. It renumbered the categories that were subject to the DST, increased the rates, and added several items to the list of exempt documents/instruments/transactions. On the other hand, under PD 1457⁹, the DST rates on almost all documents/instruments/ transactions were reduced. Another amendatory issuance include Executive Order (EO) No. 194¹⁰ series of 1987 although these are on the DST on non-financial products and transactions.

¹ “An Act to Provide for the Support of the Insular Provincial and Municipal Governments, by Internal Taxation”, August 1, 1904.

² “An Act to Revise, Amend and Codify the Internal Revenue Laws of the Philippines”, June 15, 1939.

³ “An Act to Amend Certain Sections of the National Internal Revenue Code, Relative to Documentary Stamp Tax”, October 1, 1946.

⁴ “An Act to Amend Title VI of Commonwealth Act Number Four Hundred and Sixty-Six, Otherwise Known as the National Internal Revenue Code”, August 31, 1950.

⁵ “An Act to Further Amend Section Two Hundred Twenty-Seven of the National Internal Revenue Code”, June 22, 1957.

⁶ “An Act Amending Certain Provisions of the National Internal Revenue Code, as Amended”, August 5, 1969.

⁷ “Amending Certain Sections of the National Internal Revenue Code”, November 24, 1972.

⁸ “A Decree to Consolidate and Codify All the Internal Revenue Laws in the Philippines”, June 3, 1977.

⁹ “Amending Certain Sections of the National Internal Revenue Code of 1977, as Amended, and for Other Purposes”, dated June 11, 1978.

¹⁰ “Restructuring the Taxes and Providing for the Distribution of Receipts in Horse Racing, and for Other Purposes”, dated June 16, 1987.

In 1993, when RA 7660¹¹ was enacted, several major changes in the DST were again introduced including the renumbering of sections, rewording of the categories and increasing the rates. The DST on pre-need plans was introduced, among others.

Subsequent restructuring of the DST rates was done via RA 8424¹² in 1997 (NIRC of 1997), RA 9243¹³ in 2004, RA 9648¹⁴ in 2009, RA 10001¹⁵ in 2010, and RA 10963¹⁶ in 2017. The following are the highlights of these laws particularly on the DST affecting financial products and transactions: (**Table 1**)

1. RA 8424

Under RA 8424, the rates for most documents/instruments/transactions under RA 7660 (1996) were generally retained. The category on “bonds, debentures and certificates of indebtedness” was renamed as “debentures and certificate of indebtedness”. Additional documents/instruments/transactions were also exempted from the DST.

As observed, most of the DST rates were ad valorem while a few were fixed amounts. The highest ad valorem tax rates were imposed on policies of insurance upon property (Section 184), and fidelity bonds and other insurance policies (Section 185) at 12.50%, followed by indemnity bonds (Section 187) at 7.50%. The lowest rate was imposed on pre-need plans (Section 186) at 0.10%.

For fixed rates, the highest was PhP15.00 for certificates (Section 188) and proxies (Section 192), each, followed by powers of attorney (Section 193) at PhP5.00 and bank checks (Section 179) at PhP1.50.

¹¹ “An Act Rationalizing Further the Structure and Administration of the Documentary Stamp Tax, Amending for the Purpose Certain Provisions of the National Internal Revenue Code, as Amended, Allocating Funds for Specific Programs, and for Other Purposes”, December 23, 1993.

¹² “An Act Amending the National Internal Revenue Code, As Amended, and for Other Purposes”, December 11, 1997.

¹³ “An Act Rationalizing the Provisions on the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes”, February 17, 2004.

¹⁴ “An Act Exempting from Documentary Stamp Tax Any Sale, Barter or Exchange of Shares of Stock Listed and Traded Through the Stock Exchange, Further Amending for the Purpose Section 199 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9243, and for Other Purposes”, dated June 30, 2009.

¹⁵ “An Act Reducing the Taxes on Life Insurance Policies, Amending for this Purpose Sections 123 and 183 of the National Internal Revenue Code of 1997, as Amended”, approved February 23, 2010.

¹⁶ “An Act Amending Sections 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, and 288; Creating New Sections 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, and 265-A; and Repealing Sections 35, 62, And 89; All Under Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended, and for Other Purposes”, dated December 19, 2017.

2. RA 9243

In 2004, pursuant to RA 9243, the “debentures and certificate of indebtedness” category was deleted and included under Section 179 which was renamed “all debt instruments”. A new category namely “all bills of exchange or drafts” was subjected to DST. It also changed the tax base on life insurance policies from the amount insured to the amount of premium collected but retained the rate.

RA 9243 also decreased the DST rates on: (1) Original issue of shares of stock (Section 174) from 1.00% to 0.50%; (2) Sales, agreements to sell, memoranda of sales, deliveries or transfer of shares or certificates of stock (Section 175) from 0.75% to 0.375%; and (4) Policies of annuities (Section 186) from 0.75% to 0.25%.

The abovementioned law also subjected shares of stock and debt instruments to the same DST of 0.50%, thus, removing the advantage given under the old law to debts as preferred form of financing a business. It also granted exemption to the sale, barter or exchange of shares of stock listed and traded through the local stock exchange for a period of five (5) years from the effectivity of the law.

3. RA 9648

In 2009, the sale, barter or exchange of shares of stock listed and traded through the local stock exchange was granted absolute exemption via RA 9648.

4. RA 10001

In 2010, RA 10001 reverted the tax base of DST on life insurance policies from amount of premium collected to amount of insurance and subjected them to a one-time DST payment. Life insurance policies amounting to PhP100,000 and below are exempt from the DST while those amounting to more than PhP100,000 are liable to the tax ranging from PhP10.00 to PhP100.00.

5. RA 10963

In December 2017, RA 10963 increased all DST rates by 100% except the DST on debt instruments (Section 179) which was only increased by 50% and retained the rates on policies of insurance upon property (Section 184), fidelity bonds (Section 185), indemnity bonds (Section 187), and conveyance of real properties (Section 196). Under the Act, the DST on debt instruments is increased from 0.50% to 0.75% while the original issuance of shares of stock is now at 1%. This again gives advantage to debt instruments over original issuance of stocks. (Table 1)

Table 1. CHANGES IN THE DST RATES FROM 1997 TO 2017

Section	Current Description	Tax Base	Tax Rate				
			RA 8424	RA 9243	RA 9648	RA 10001	RA 10963
174	Original Issue of Shares of Stock	Par value	1.00%	0.50%	0.50%	0.50%	1.00%
175	Sales, Agreements to Sell, Memoranda of Sales, Deliveries or Transfer of Shares or Certificates of Stock	Par value	0.75%	0.375%	0.375%	0.375%	0.75%
	In Case of Stock Issued Without Par Value	DST paid on the original issue of shares of stock	25%	25%	25%	25%	50%
	Traded through Local Stock Exchange			Exempt for 5 years	Exempt	Exempt	Exempt
176	Bonds, Debentures, Certificate of Stock or Indebtedness Issued in Foreign Country	Face value	Tax as required by law	Tax as required by law	Tax as required by law	Tax as required by law	Tax as required by law
177	Certificate of Profits or Interest in Property or Accumulation	Face value	0.25%	0.25%	0.25%	0.25%	0.50%
178	Bank Checks, Drafts, Certificates of Deposit Not Bearing Interest and Other Instruments	Per instrument	PhP1.50	PhP1.50	PhP1.50	PhP1.50	PhP3.00
179	Debt Instruments	Issue price	0.75%/0.15%	0.50%	0.50%	0.50%	0.75%
180	All Bills of Exchange or Drafts	Face value	0.15%	0.15%	0.15%	0.15%	0.30%
181	Upon Acceptance of Bills of Exchange and Others	Face value	0.15%	0.15%	0.15%	0.15%	0.30%
182	Foreign Bills of Exchange and Letters of Credit	Face value	0.15%	0.15%	0.15%	0.15%	0.30%
183	Life Insurance Policies	Premium/Amount of insurance*	0.25%	0.25%	0.25%	PhP10.00-PhP100.00	PhP20.00-PhP200.00
184	Policies of Insurance Upon Property	Premium	12.50%	12.50%	12.50%	12.50%	12.50%
185	Fidelity Bonds and Other Insurance Policies	Premium	12.50%	12.50%	12.50%	12.50%	12.50%
186	Policies of Annuities and Pre-Need Plans	Face Value Premium	0.75% 0.10%	0.25% 0.10%	0.25% 0.10%	0.25% 0.10%	0.50% 0.20%

Section	Current Description	Tax Base	Tax Rate				
			RA 8424	RA 9243	RA 9648	RA 10001	RA 10963
187	Indemnity Bonds	Premium	7.50%	7.50%	7.50%	7.50%	7.50%
188	Certificates	Per certificate	PhP15.00	PhP15.00	PhP15.00	PhP15.00	PhP30.00
189	Warehouse Receipts	Per receipt	Ph15.00	PhP15.00	PhP15.00	PhP15.00	PhP30.00
190	Jai-Alai, Horse-Race Tickets, Lotto or Other Authorized Numbers Games	Ticket price	10.00%	10.00%	10.00%	10.00%	20.00%
191	Bills of Lading or Receipts	Value	0.10%	0.10%	0.10%	0.10%	0.20%
192	Proxies	Per instrument	PhP15.00	PhP15.00	PhP15.00	PhP15.00	PhP30.00
193	Powers Of Attorney	Per instrument	PhP5.00	PhP5.00	PhP5.00	PhP5.00	PhP10.00
194	Leases And Other Hiring Agreements	Value	0.15%/0.10%	0.15%/0.10%	0.15%/0.10%	0.15%/0.10%	0.30%/0.20%
195	Mortgages, Pledges and Deeds of Trust	Amount secured	0.40%/0.30%	0.40%/0.30%	0.40%/0.30%	0.40%/0.30%	0.80%/0.60%
196	Deed of Sale and Conveyances of Real Property	Consideration	1.50%	1.50%	1.50%	1.50%	1.50%
197	Charter Parties and Similar Instruments	Gross tonnage	PhP500-1,500	PhP500-1,500	PhP500-1,500	PhP500-1,500	PhP1,000 - PhP3,000
198	Assignment and Renewals of Certain Instruments	Same base as original instruments	Same rate as original	Same rate as original	Same rate as original	Same rate as original	Same rate as original

* RA 9243 changed the tax base from amount of insurance to premium in 2004. However, RA 10001 reverted the tax base to amount of insurance in 2010.

Note: The computed ad valorem tax under Section 195 are for PhP5,000.00 and PhP10,000.00, respectively.

Below are the documents/instruments/transactions currently exempt from the DST under Section 199 (a) to (n):

- a. Policies of insurance or annuities made or granted by a fraternal or beneficiary society, association or cooperative company, organized and conducted solely for the exclusive benefit of each member and not for profit;
- b. Certificates of oaths administered by any government official; written appearance in any court by any government official in his official capacity; affidavits of poor persons for the purpose of proving poverty; statements and other compulsory information required of persons or corporations for statistical purposes; certificates of the assessed value of lands, not exceeding PhP200 in assessed value,

furnished by the provincial, city or municipal treasurer to applicants for registration of title to land;

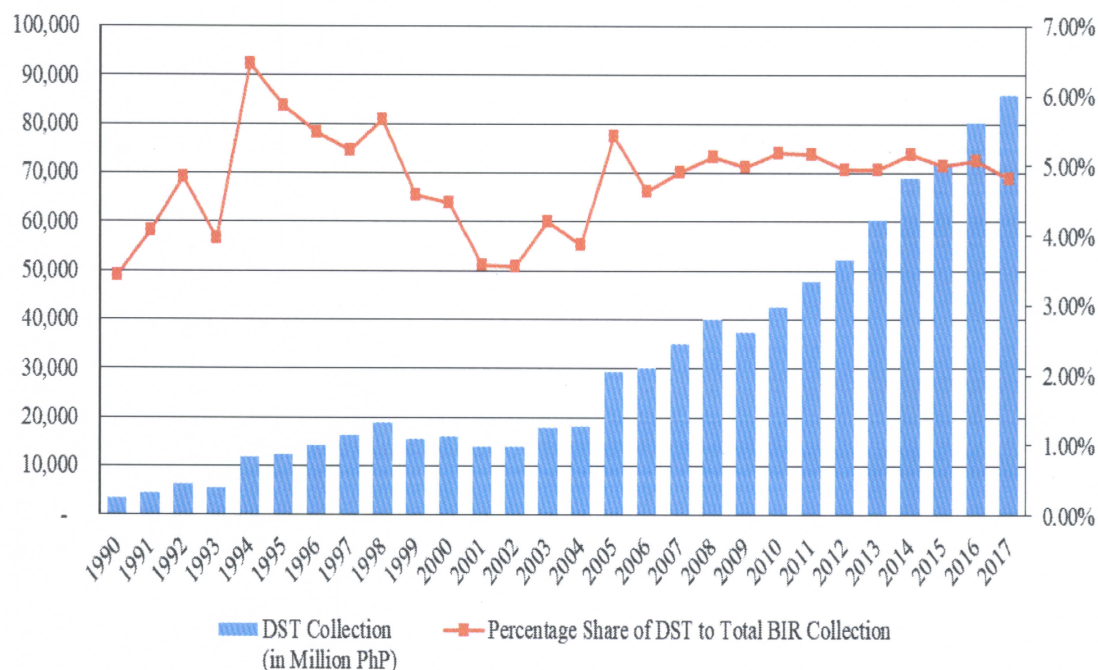
- c. Borrowing and lending of securities executed under the Securities Borrowing and Lending Program of a registered exchange, or in accordance with regulations prescribed by the appropriate regulatory authority under certain conditions;
- d. Loan agreements or promissory notes, the aggregate of which does not exceed two hundred fifty thousand pesos (PhP250,000), or any such amount as may be determined by the Secretary of Finance, executed by an individual for his purchase on installment for his personal use or that of his family and not for business or resale, barter or hire of a house, lot, motor vehicle, appliance or furniture under certain conditions;
- e. Sale, barter or exchange of shares of stock listed and traded through the local stock exchange;
- f. Assignment or transfer of any mortgage, lease or policy of insurance, or the renewal or continuance of any agreement, contract, charter, or any evidence of obligation or indebtedness, if there is no change in the maturity date or remaining period of coverage from that of the original instrument;
- g. Fixed income and other securities traded in the secondary market or through an exchange;
- h. Derivatives: Provided, That for purposes of this exemption, repurchase agreements and reverse repurchase agreements shall be treated similarly as derivatives;
- i. Interbranch or interdepartmental advances within the same legal entity;
- j. All forbearances arising from sales or service contracts including credit card and trade receivables: Provided, that the exemption shall be limited to those executed by the seller or service provider itself;
- k. Bank deposit accounts without a fixed term or maturity;
- l. All contracts, deeds, documents and transactions related to the conduct of business of the Bangko Sentral ng Pilipinas;
- m. Transfer of property pursuant to Section 40(C)(2) of the National Internal Revenue Code of 1997, as amended; and
- n. Interbank call loans with maturity of not more than seven (7) days to cover deficiency in reserves against deposit liabilities, including those between or among banks and quasi-banks.

Aside from the DST exemptions listed under Section 199 (a) to (n) of the NIRC, as amended, there are also special laws providing specific exemptions to certain sectors/entities. In 2004, RA 9267¹⁷ granted DST exemption on the sale or transfer of assets to the Special Purpose Entity, which includes sales or transfer of any and all security interest thereto. Also, remittances of overseas Filipino workers (OFWs) are exempted from the tax upon the passage of RA 10022¹⁸ in 2010 in recognition of their contribution to the economy.

III. DST REVENUE PERFORMANCE

Available data show that the DST collection remarkably grew from PhP3.5 billion in 1990 to PhP85.9 billion in 2017, sharing around 3% to 6% of the total BIR collection. (Figure 1 and Table 2)

Figure 1. DST Collection, 1990-2017



¹⁷ “An Act Providing The Regulatory Framework For Securitization And Granting For The Purpose Exemptions From The Operations Of Certain Laws”, dated March 19, 2004.

¹⁸ “An Act Amending Republic Act No. 8042, Otherwise Known As The Migrant Workers And Overseas Filipinos Act Of 1995, As Amended, Further Improving The Standard Of Protection And Promotion Of The Welfare Of Migrant Workers, Their Families And Overseas Filipinos In Distress, And For Other Purposes”, dated March 8, 2010.

Table 2. DST COLLECTION, 1990 - 2017
(Amounts in Million PhP)

Year	DST Collection	Percentage Share of DST to Total BIR Collection
1990	3,544	3.44
1991	4,683	4.07
1992	6,419	4.84
1993	5,735	3.97
1994	12,034	6.47
1995	12,399	5.86
1996	14,292	5.48
1997	16,477	5.24
1998	19,081	5.66
1999	15,680	4.59
2000	16,170	4.48
2001	13,920	3.58
2002	14,064	3.56
2003	17,921	4.21
2004	18,167	3.88
2005	29,431	5.42
2006	30,288	4.64
2007	35,147	4.93
2008	40,054	5.14
2009	37,484	5.00
2010	42,629	5.18
2011	47,879	5.18
2012	52,455	4.96
2013	60,356	4.96
2014	69,036	5.17
2015	72,073	5.00
2016	80,151	5.09
2017	85,916	4.82

Source of data: BIR

By section, from 2010 to 2017, the DST collection on debt instruments (Section 179) had the biggest average contribution annually of 48.59% to total DST collection, followed by policies of insurance upon properties (Section 184) with an average share of 9.65%. The DST on powers of attorney (Section 193) had the lowest share of less than 1.00%. (Table 3)

Table 3. DST COLLECTION BY SECTION
(Amounts in Million PhP)

Section	Description	2010	2011	2012	2013	2014	2015	2016	2017	Average Percentage Share
	TOTAL DST	42,629.03	47,878.78	52,455.34	60,356.13	69,035.81	72,072.90	80,151.40	85,915.94	
	DST ON FINANCIAL TRANSACTIONS	25,928.43	35,525.32	36,044.10	41,083.43	37,674.41	49,994.20	57,244.39	59,202.36	100.00
174	Original Issue of Certificate of Stocks	318.59	668.83	1,314.93	1,997.99	1,745.70	2,717.92	2,660.52	2,374.74	2.70
175	Sales, Agreements to Sell, Memo, Etc.	17.16	39.26	84.79	138.13	80.1	120.25	193.24	153.76	0.16
176	Bonds, Debentures, Cert of Indebtedness Issued in Any Foreign Country	6.58	3.49	5.82	5.04	9.83	11.99	13.31	2.07	0.01
177	Certificate of Profits or Interest of Property or Accumulated	1.61	1.59	1.27	1.6	1.31	10.68	20.76	22.03	0.01
178	Bank Checks, Drafts, Certificates of Deposit Not Bearing Interest and Other Instruments	185.39	233.94	232.42	279.71	248.7	276.45	318.86	372.75	0.42
179	Debt Instruments	20,275.99	26,628.03	25,659.67	29,508.54	26,795.64	35,058.17	41,626.01	42,498.62	48.59
180	All Bills of Exchange or Drafts	60.02	83.75	129.62	127.05	92.89	84.67	75.01	155.09	0.16
181	Acceptance of Bills of Exchange or Order for Payment of Money	514.42	570.11	581.21	588.53	658.02	800.92	844.82	903.62	1.07
182	Foreign Bills of Exchange and Letters of Credit	710.46	903.7	949.15	1,048.91	942.73	1,058.27	1,204.78	1,212.15	1.57
183	Life Insurance Policies	47.44	32.59	80.16	85	85.58	132.86	98.02	96.8	0.13

Section	Description	2010	2011	2012	2013	2014	2015	2016	2017	Average Percentage Share
184	Policies of Insurance upon Property	2,977.42	5,064.92	5,612.70	5,720.93	5,476.93	7,643.59	7,840.47	8,936.38	9.65
185	Fidelity Bonds and Other Insurance Policies	258.6	374.72	391.23	436.01	413.47	746.36	768.84	751.68	0.81
186	Policies of Annuities and Pre-Need	8.96	14.46	13.24	15.72	15.66	17.33	15.84	65.52	0.03
187	Indemnity Bonds	3.55	3.84	4.75	5.7	8.28	9.28	8.93	11.96	0.01
188	Certificates	9.8	19.65	26.99	21.71	137.77	259.64	382.67	415.08	0.25
189	Warehouse Receipts	5.74	8.19	8.77	11.89	13.04	11.61	11.68	11.08	0.02
190	Jai-Ali, Horse-Race Tickets, Lotto, Etc.	997.64	913.01	755.34	2,048.88	3,979.04	4,201.73	4,595.51	5,798.51	4.56
191	Bills of Lading or Receipts	22.96	33.46	31.22	35.44	39.47	35.9	40.41	44.55	0.06
192	Proxies for Voting of Any Elections	0.68	0.25	0.14	0.12	0.37	0.23	0.31	0.26	0.00
193	Powers of Attorney	0.03	0.04	0.04	0.1	0.03	0.04	0.03	0.03	0.00
194	Leases and Other Hiring Agreements	75.36	98.28	140.56	128.9	186.25	246.09	263.81	282.71	0.28
195	Mortgages, Pledges and Deed of Trust	541.27	901.2	982.13	1,123.36	1,094.39	1,302.01	1,551.76	1,622.45	1.79
196	Deed of Sale and Conveyances of Real Property	2,185.64	2,692.54	4,730.45	3,513.29	3,844.29	4,371.69	4,847.86	6,975.00	6.50
197	Charter Parties and Similar Instruments	0	-	57.86	0.01	0.01	1.58	12.16	12.59	0.02
198	Assignment and Renewals of Certain Instruments	0.97	0.89	1.01	1.21	5.18	3.45	3.22	22.74	0.01
	NOT ELSEWHERE CLASSIFIED (NEC)	13,402.75	8,588.04	10,659.87	13,512.36	23,161.13	12,950.19	12,752.57	13,173.77	21.20

Note: Sections 188 to 194 and 196 to 197 are non-financial transactions.
Sources of basic data: BIR eDST, DS2000, DS2000-OT and 12.09 Report

IV. CURRENT ISSUES AND PROBLEMS ON THE DST ON FINANCIAL PRODUCTS AND TRANSACTIONS

Although the DST is considered to be a major revenue contributor, it is viewed to be cumbersome, increasing friction cost, and hampering capital market development. The current DST structure is faced with the following issues and challenges.

1. *Complicated DST Structure*

Of the 25 major categories of instruments/documents/transactions on which the DST is imposed, all except Sections 189 to 194 and Sections 196 and 197 are applicable to financial instruments and/or transactions. The DST is either an ad valorem tax (AVT) which is based on value or fixed rate.

The AVT is generally a single rate although a few have two-tiered rates. Similarly, the fixed rate is either single or multiple amounts. Over-all there are 20 unique tax rates and bases in the current DST structure on financial products making it complicated and confusing to both taxpayers and tax administrators.

The AVT is generally expressed in “PhPxx on each PhPxx or fractional part thereof, of the tax base.” For instance, under Section 174 (Original Issue of Shares of Stock) the DST amounts to PhP2.00 on each PhP200.00 or fractional part thereof, of the par value of such shares of stock. Percentage-wise, the tax is equivalent to 1.00% of the par value of the shares of stock. On the other hand, under Section 184 (Policies of Insurance upon Property) the DST amounts to PhP0.50 on each PhP4.00 or 12.50%. Also, under Section 195 (Mortgages, Pledges and Deeds of Trust) the tax is PhP40.00 when the amount secured does not exceed PhP5,000.00 and additional tax of PhP20.00 on each PhP5,000.00 in excess of PhP5,000.00. As can be noted, the ad valorem rates are not expressed in percent but on varying X amount on each Y amount, which make the DST not readily comparable.

2. *High Rates/High Friction Cost*

The DST rates applicable to financial sector range from 0.20% (Section 186 – Pre-need plans) to 12.50% Section 184 (Non-life insurance) and Section 185 (Fidelity bonds and other insurance policies) followed by 7.5% on Section 187 (Indemnity Bonds). Most of the DST rates, taken as a percentage of the value of transaction, are prohibitive and exorbitant and thus discourage parties from consummating business transactions.¹⁹

¹⁹ Atty. Benedicta Du-Baladad, “Taxation of Banks and Non-Bank Financial Intermediaries in the Philippines”, 1st Edition, page 88.

3. Multiple DST on Single Continuous Transaction

There are instances when multiple DSTs are imposed on a single continuous transaction. A single continuous transaction refers to transactions consisting of a single act and a single purpose but which may have as its components more than one taxable transaction, if taken separately. For example, a letter of credit (LC) transaction basically involves three taxable transactions/documents, each subject to a different DST rate, i.e., (a) upon opening of the LC which is taxable under Section 182; (b) negotiation of the beneficiary for the payment of the LC which is taxable under Sections 178 or 180; and (c) availment of trust receipt line by executing a trust receipt agreement in case of non-payment by the client-importer which is taxable under Section 195. Thus, a single LC transaction can actually be taxed thrice if all these procedures are undertaken.²⁰

4. Differentiated Rates for Similar Documents/Transactions/Instruments

(a) DST on debt vs. equity

Prior to RA 9243, original issuance of shares of stock was taxed at a higher rate of 1% compared with debt instruments at 0.75%. Under RA 9243, the DST on original issuance of shares of stock was lowered to 0.50%. Similarly, all debt instruments were levied the same rate of 0.50%, thus removing the advantage of debt over equity.

However, under the recently passed TRAIN Law, the DST on shares of stock was doubled from 0.50% to 1.00% while the tax on debt instrument was increased by 50.00% only or from 0.50% to 0.75%. Thus, the DST between the two instruments is again differentiated in favor of debt over equity.

(b) DST on Shares of stock

Original issue of shares of stock is currently taxed at 1.00% of the par value of such shares of stock. Transfer of shares listed and traded through the local stock exchange is exempt while those not listed and traded through the exchange is taxed at 0.75% of par value and at 0.50% of actual consideration if without par value. The same DST rates apply to the sale or transfer in the Philippines of certificate of stocks issued in a foreign country. Thus, there are four types of DST rates imposed on shares of stock. (Table 4)

²⁰ Atty. Du-Baladad, page 114.

Table 4. DST ON SHARES OF STOCK

Section	Transaction	Tax Base	Tax Rate	Equivalent AVT
174	Original issue of shares of stock			
	a. With par value	Par value	PhP2.00 on each PhP200.00, or fractional part thereof	1%
	b. Without par value	Actual consideration	PhP2.00 on each PhP200.00, or fractional part thereof	1%
175	Sales, agreements to sell, memoranda of sales, deliveries or transfer of shares or certificate of stock			
	a. With par value	Par value	PhP1.50 on each PhP200.00 or fractional part thereof	0.75%
	b. Without par value	DST paid upon the original issue of said stock	50%	0.50%
199 (e)	c. Listed and traded at the PSE	-	Exempt	Exempt

(c) DST on Debt Instruments

Debt instruments refer to instruments representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements, including those signed abroad wherein the object of contract is located or used in the Philippines, instruments and securities issued by the government or any of its instrumentalities, deposit substitute debt instruments, certificates or other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved or drawing interest and having a specific maturity date, orders for payment of any sum of money otherwise than at sight or on demand, promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation.²¹

²¹ Section 179 of the NIRC, as amended.

Original issue of debt instruments, as enumerated above, are liable to a DST of PhP1.50 on each PhP200.00, or fractional part thereof, or 0.75% of the issue price of such debt instrument. The sale, exchange or trading of debt instruments in the secondary market or through an exchange is not subject to the tax pursuant to Section 199 (g) of the Tax Code and as clarified under BIR RR 13-2004²². Likewise, renewals of debt instruments are not subject to the DST if there is no change in maturity date, or remaining period of coverage from that of the original instrument pursuant to Section 199 (f) of the Tax Code.

On deposits, Section 177 provides that certificates of profits or interest in property or accumulations of any association, company or corporation, and on all transfers of such certificates or memoranda are levied PhP1.00 on each PhP200.00 or fractional part thereof, of the face value of such certificate or memoranda. On the other hand, on each bank check, draft, certificate of deposits not bearing interest and other instruments are levied a DST of PhP3.00 per document/instrument. Thus, the DST rates likewise vary. (Table 5)

Table 5. DST ON DEBT INSTRUMENTS AND BANK DEPOSITS

Section	Transaction	Tax Base	Tax Rate	Equivalent AVT
179	Original issue of debt instruments	Issue price; if term is less than 1 year, a proportional amount based in a ratio of its term to 365 days	PhP1.50 on each PhP200.00, or fractional part thereof	0.75%
176	Bonds, debentures or certificates of indebtedness issued in any foreign country and sold or transferred in the Philippines	-	Same tax imposed on similar instruments when issued, sold or transferred in the Philippines.	-
177	Certificates of profits or interest in property or accumulations	Face value	PhP1.00 on each PhP200.00, or fractional part thereof	0.50%

²² “Implementing the Provision of Republic Act No. 9243, An Act Rationalizing the Provisions on the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes”, December 23, 2004.

Section	Transaction	Tax Base	Tax Rate	Equivalent AVT
178	Bank checks, drafts, certificates of deposit not bearing interest, and other instruments	Per instrument	PhP3.00	-
198	Assignments and renewals of instruments a. If there is change in maturity date or remaining period of coverage from that of the original instrument	-	Same tax as original instrument	-
199 (f)	b. If there is no change in maturity date or remaining period of coverage	-	Exempt	Exempt
199 (g)	Fixed income and other securities traded in the secondary market or through an exchange	-	Exempt	Exempt

(d) DST on Bills of Exchange

A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a certain sum in money to order or to bearer.²³

The bills of exchange under Section 180 of the NIRC of 1997, as amended, are bills which are both drawn and payable within the Philippines. Such bills of exchange involve domestic transactions like money orders.

Meanwhile, acceptance of bills of exchange under Section 181 refers to orders for the payment of money drawn in foreign country but payable in the Philippines whether at sight or on demand or after a specified time. Under Section 182, the DST is imposed on all foreign bills of exchange drawn in but payable out of the Philippines. Sections 180 to 182 pertain to bills of exchange with a unified tax base and rate but separately prescribed in three sections.

²³ Section 126, "Act No. 2031 or The Negotiable Instruments Law", February 3, 1911.

On the other hand, Section 195 pertains to mortgages, pledges and deeds of trust. An example of a pledge for a loan is a pawn ticket issued by a pawnshop. The DST is PhP40.00 when the amount secured is less than PhP5,000.00 and an additional tax of PhP20.00 on each PhP5,000.00 or fractional part thereof in excess of PhP5,000.00. The equivalent AVT is higher than the abovementioned bills of exchange. (Table 6)

Table 6. DST ON BILLS OF EXCHANGE AND TRUST RECEIPTS

Section	Transaction	Tax Base	Tax Rate	Equivalent AVT
180	All bills of exchange between points within the Philippines (Domestic to domestic)	Face Value	PhP0.60 on each PhP200.00 or fractional part thereof	0.30%
181	Acceptance or payment of bills of exchange or order for the payment of money purporting to be drawn in a foreign country but payable in the Philippines (Foreign to domestic)	Face Value	PhP0.60 on each PhP200.00 or fractional part thereof	0.30%
182	Foreign bills of exchange and letters of credit drawn in but payable outside the Philippines (Domestic to foreign)	Face Value	PhP0.60 on each PhP200.00 or fractional part thereof	0.30%
195	Mortgages, pledges and deeds of trust	Amount secured	PhP40.00 when the amount secured does not exceed PhP5,000.00	0.80%
			Additional PhP20.00 on each PhP5,000.00, or fractional part thereof in excess of PhP5,000.00	Varied

(e) DST on Non-life Insurance

Another example is the DST under Section 184 (Policies of Insurance upon Property), Section 185 (Fidelity Bonds and other Insurance) and Section 187 (Indemnity Bonds). Under Section 184 and 185, the DST is 12.50% while under Section 187, the tax is 7.50%.

Table 7. DST ON NON-LIFE INSURANCE AND SIMILAR PRODUCTS

Section	Transaction	Tax Base	Tax Rate	Equivalent AVT
184	Policies of Insurance upon Property	Amount of premium charged	PhP0.50 on each PhP4.00 or fractional part thereof	12.50%
185	Fidelity Bonds and Other Insurance	Premium charged	PhP0.50 on each PhP4.00 or fractional part thereof	12.50%
187	Indemnity Bonds	Premium charged	PhP0.30 on each PhP4.00 or fractional part thereof	7.50%

V. PROPOSED DST REFORMS ON FINANCIAL TRANSACTIONS²⁴

In view of the issues discussed above, Package 4 shall reform the DST structure as follows:²⁵

1. *Express all Ad Valorem DST Rates in Percent (%)*

To simplify the DST structure, it is suggested that instead of using different taxable units with different tax bases (e.g. PhP2.00 per PhP200.00 of the tax base), DST rates may be expressed in percent (%). Thus, the DST in Section 174 on original issue of shares of stock at PhP2.00 on each PhP200.00 of fractional part thereof, of the par value of such shares of stock may be expressed as 1% of the par value. In this way, the computation of the DST will be easier and the rates will be readily comparable.

²⁴ See Annex A for the summary of the proposed DST reforms on financial transactions.

²⁵ Refer to Annex A for the proposed amendments of the DST.

2. *Equate DST on Debt and Equity*

There is a need to equate DST on equity with debt since both can be used by businesses to raise financial capital. They either borrow money through debt instruments or raise money through equity instruments such as shares of stock.

The DST on original issue of shares of stock under Section 174 is suggested to be lowered from 1.00% to 0.75% to be at par with debt instruments.

3. *Rationalize the DST on the following:*

(a) Sale of Shares of Stock (Sections 174 and 175)

Currently, original issue of shares of stock is levied a DST of 1% par value while secondary sale or transfer of such shares in a local stock exchange is exempt. However, a DST of 0.75% is imposed when the transfer is not done through the local stock exchange. To boost the capital market, it is recommended that such transfer be likewise exempt from the DST. The exemption from the DST thereon would encourage domestic trading activities which would spell positive economic growth for the country. It is also seen to enhance liquidity in the secondary trading of equity instruments.

(b) Bills of Exchange (Sections 180 to 182)

The bills of exchange under Section 180, is a bill which is both drawn and payable within the Philippines. Such involve domestic transactions like money orders. It is suggested that said DST imposition be removed in order to promote financial inclusion.

On the other hand, the DST on the acceptance or payment of any bill of exchange or order for the payment of money drawn in foreign country but payable in the Philippines under Section 181 and on foreign bills of exchange under Section 182 may be combined under one category. Doing this would trim down the number of DST categories and the number of sections.

(c) Policies of Insurance Upon Property and Fidelity Bonds and Other Insurance Property (Sections 184, 185 and 187)

Under Sections 184 and 185, policies of insurance upon property and fidelity bonds and other insurance property, respectively, are both taxed at 12.50% of premium. On the other hand, indemnity bonds are levied a lower rate of 7.5%. For uniformity of tax treatment, the DST on non-life insurance

and fidelity bonds may be gradually reduced by one percentage point annually until it reaches 7.5% by 2024.

4. Elimination of Multiple DST on Single Continuous Transaction

As mentioned earlier, there are instances when multiple DSTs are imposed on a single continuous transaction. The example given above is on letters of credit which could either be taxed at PhP0.60 per PhP200.00 of the face value of the instrument or 0.30% under Section 182 (Foreign bills of exchange and letters of credit) or at PhP40.00 if the amount secured does not exceed PhP5,000 and PhP20.00 on each PhP5,000 or 0.60% assuming that the secured amount is PhP10,000.00 under Section 195 (Mortgages, pledges and deeds of trust).

In order to eliminate the imposition of multiple DST on a single importation, a provision under Section 182 needs to be inserted to the effect that in the case of a letter of credit under said section such will no longer be liable to the tax under Section 195 with respect to the availment of a trust receipt line where the property subject of the letter of credit is made a security for payment.

5. Imposition of DST on Notarized Documents Only

Section 188 imposes PhP30.00 on each certificates issued whether notarized or not. It is imposed even on certificates for the purpose of establishing proof of fact. It is suggested that the imposition of DST be limited to notarized documents only.

6. Removal of DST on Certain Instruments

In order to further simplify the DST structure, “nuisance” provisions with low revenue take may be removed. These include Section 177 (Certificates of profits or interest in property or accumulation), Section 178 (Bank checks, drafts, certificates of deposit not bearing interest, and other instruments), Section 192 (Proxies) and Section 193 (Powers of Attorney). Nevertheless, the above-mentioned sections may be covered by the proposed changes in Section 188 once notarized.

7. Proposed Lifting of Certain DST Exemptions

A review of the list of exemptions shows that while loan agreements or promissory notes not exceeding PhP250,000.00, executed by an individual for his purchase on installment for his personal use or that for his family and not for business or resale, barter or hire of a house, lot, motor vehicle, appliance or

furniture is exempt from the DST pursuant to Section 199 (d) of the NIRC of 1997, as amended, a contract of pledge is subject to it under Section 195 of the same Code. A concrete example of contract of pledge as mentioned earlier is a pawn ticket issued by a pawnshop. A pledge is generally of small amount and subject to the DST of PhP40.00 for secured amount not exceeding PhP5,000 and PhP20.00 in excess of PhP5,000. Thus, a PhP10,000 pledge will be levied a DST of PhP60.00 or 0.60%. For equity and revenue considerations and for consistency of policies, said exemption may be lifted.

In the same manner, the lifting of the DST exemption on the certificates of the assessed value of lands, not exceeding PhP200.00 furnished by provincial, city or municipal Treasurer to applicants for registration of title to land, as well as warehouse receipts issued to any person in one calendar month covering property the value of which does not exceed PhP200.00 and deed of conveyance of real property where the consideration is less than PhP1,000 are likewise proposed to be lifted as the values are already obsolete.

A summary of the proposed amendments is presented. (Annex A)

IV. CONCLUSION

In summary, the proposals include expressing all ad valorem DST rates in percent, equating DST on debt and equity, unifying all non-life insurance rates, removing DST on domestic money transfers to support financial inclusion, and removing “nuisance” provisions with low revenue take. The proposed reforms will greatly simplify the DST structure and promote equity and fairness in the tax treatment of equivalent and/or comparable financial products and/or transactions.



Annex A. PROPOSED AMENDMENTS OF THE DOCUMENTARY STAMP TAX

Section	Transaction / <i>Proposed</i>	DST Base/Rate			Proposed
			Current	AVR	
174	<i>Original issue of shares of stock</i>	Par value	PhP2.00 on each PhP200.00, or fractional part thereof	1.00%	0.75%
175	<i>Sales, agreements to sell, memoranda of sales, deliveries or transfer of shares or certificates of stock</i>	Par value	PhP1.50 on each PhP200.00, or fractional part thereof.	0.75%	Remove
	<i>Without par value</i>	DST paid upon the original issue of said stock	50%	50%	
176	<i>Bonds, debentures, certificates of stock, or certificates of indebtedness issued in any foreign country</i>	Face value	Tax as required by law	Tax as required by law	Status quo
177	<i>Certificate of profits or interest in property or accumulation</i>	Face value	PhP1.00 on each PhP200.00, or fractional part thereof	0.50%	Remove
178	<i>Bank checks, drafts, certificates of deposit not bearing interest, and other instruments</i>	Per instrument	PhP3.00	-	Remove
179	<i>Debt Instruments</i>	Issue price; if term is less than 1 year, a proportional amount based on a ratio of its term to 365 days	PhP1.50 on each PhP200.00, or fractional part thereof	0.75%	0.75%
180	<i>Bills of exchange or drafts (domestic to domestic)</i>	Face value	PhP0.60 on each PhP200.00, or fractional part thereof	0.30%	Remove

Section	Transaction / <i>Proposed</i>	DST Base/Rate			Proposed
			Current	AVR	
181	Acceptance of bill of exchange and others (foreign to domestic)	Face value	PhP0.60 on each PhP200.00, or fractional part thereof	0.30%	0.30%
182	Foreign bills of exchange and letters of credit (domestic to foreign) <i>All bills of exchange and letters of credit (To include orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons)</i>	Face value	PhP0.60 on each PhP200.00, or fractional part thereof	0.30%	
183	<i>Life insurance policies</i>	a. If the amount of insurance does not exceed PhP100,000; b. Exceeds PhP100,000 but does not exceed PhP300,000; c. Exceeds PhP300,000 but does not exceed PhP500,000; d. Exceeds PhP500,000 but does not exceed PhP750,000; e. Exceeds PhP750,000 but does not exceed PhP1 million;	Exempt PhP20.00 PhP50.00 PhP100.00 PhP150.00		Status quo

Section	Transaction / <i>Proposed</i>	DST Base/Rate			Proposed
			Current	AVR	
		f. Exceeds PhP1 million	PhP200.00		
184	<i>Policies of insurance upon property</i>	Premium charged	PhP0.50 on each PhP4.00, or fractional part thereof	12.50%	12.50% of premium in initial year until it reaches 7.5% in 2024.
185	Fidelity bonds and other insurance property <i>Fidelity bonds and other policies of insurance upon property</i>	Premium charged	PhP0.50 on each PhP4.00, or fractional part thereof	12.50%	
186	<i>Policies of annuities and pre-need plans</i>				
	a. Annuities	Premium or installment payment or contract price collected	PhP1.00 on each PhP200.00, or fractional part thereof	0.50%	0.50%
	b. Pre-need plans	Premium or contribution collected	PhP0.40 on each PhP200.00, or fraction thereof	0.20%	0.20%
187	<i>Indemnity bonds</i>	Premium charged	PhP0.30 on each PhP4.00, or fractional part thereof	7.50%	7.50%
188	<i>Certificates/ Notarized documents</i>	Per instrument	PhP30.00	-	PhP50.00
192	Proxies	Per instrument	PhP30.00	-	Remove, Include under Section 188 – Notarized Documents

Section	Transaction / <i>Proposed</i>	DST Base/Rate			Proposed
			Current	AVR	
193	Powers of Attorney	Per instrument	PhP10.00	-	Remove, Include under Section 188 – Notarized Documents
195	<i>Mortgages, Pledges and Deeds of Trust</i>	Amount secured	PhP40.00 if the amount does not exceed PhP5,000.00; PhP20.00 on each PhP5,000.00 or fractional part thereof in excess of PhP5,000.00	0.80%/ 0.40%	0.30%
198	Assignment and renewals of certain instruments / <i>Renewals of certain instruments</i>	Same base as original instrument	Same base as original instrument	Same base as original instrument	Same base as original instrument