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Profile and Taxation of the Philippine Non-Life Insurance Industry

Review of the Philippine Agricultural Insurance

Supreme Court Decisions on Documentary Stamp Tax Issues and Concerns

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I. INTRODUCTION

Financial risks and uncertainties due to unpredictable natural and man-made disasters are inevitable components of life that can cause temporary or permanent loss of income for an individual or an entire enterprise. Because of this, non-life insurance, also known as general insurance, has become an essential investment as it provides security and protection against financial losses and damages resulting from such unforeseen events. It plays a crucial role in providing financial security and peace of mind to both individuals and businesses alike. For individuals, non-life insurance offers coverage for their personal assets such as their homes and vehicles; while for businesses, it provides coverage for their properties, equipment, and liability risks, among others.

Non-life insurance is especially crucial in countries like the Philippines where there is frequent exposure to natural hazards such as typhoons, landslides, floods, and droughts. The onset of the COVID-19 pandemic has further amplified the importance of non-life insurance in mitigating financial shocks from unexpected events. Although insurance awareness in the country has increased due to the pandemic, investing in insurance product still remains to be a less priority for many especially for those who have little available disposable income. Just like other essential products, the price of non-life insurance has been escalating through the years.

Because of this, the government recognizes the urgent need to make non-life insurance products more affordable and accessible to the public. One of its proposals is to reduce the price of getting a non-life insurance such as a reduction in the documentary stamp tax (DST) imposed on non-life insurance products, which is being proposed under Package 4 of the Comprehensive Tax Reform Program (CTRP).

This paper provides basic information on the country's non-life insurance industry and its current tax treatment to serve as valuable input to fiscal policymakers. It also presents the DST proposals under Package 4 of the CTRP that would help lower the cost of non-life insurance products to help increase insurance penetration in the country.

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II. BACKGROUND INFORMATION

A. Non-life insurance products

Republic Act (RA) No. 10607, or the "The Insurance Code", as amended, defines a contract of insurance as an agreement whereby one undertakes for a consideration to indemnify another against loss, damage, or liability arising from an unknown or contingent event. There are a variety of insurance products available in the market which can be classified into two main categories, namely, life and non-life insurance products. Life insurance, as defined in Section 181 of the Insurance Code, is insurance on human lives and insurance appertaining thereto or connected therewith. In contrast, non-life insurance products are insurance on subjects other than human lives. While life insurance can be classified into permanent and term life policies, non-life insurance includes various types of insurance policies covering a range of entities such as people, property, and legal liabilities, among others. As per the Insurance Code, non-life insurance can be classified into the following:

1. Marine insurance – insurance against loss of or damage to (1) Vessels, craft, aircraft, vehicles, goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, securities, choses in action, instruments of debts, valuable papers, bottomry, and respondentia interests and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation, or while being assembled, packed, crated, baled, compressed or similarly prepared for shipment or while awaiting shipment, or during any delays, storage, transhipment, or reshipment incident thereto, including war risks, marine builder's risks, and all personal property floater risks; (2) Person or property in connection with or appertaining to a marine, inland marine, transit or transportation insurance, including liability for loss of or damage arising out of or in connection with the construction, repair, operation, maintenance or use of the subject matter of such insurance (but not including life insurance or surety bonds nor insurance against loss by reason of bodily injury to any person arising out of ownership, maintenance, or use of automobiles); (3) Precious stones, jewels, jewelry, precious metals, whether in course of transportation or otherwise; and (4) Bridges, tunnels, and other instrumentalities of transportation and communication (excluding buildings, their furniture and furnishings, fixed contents and supplies held in storage); piers, wharves, docks and slips, and other aids to navigation and transportation, including dry docks and marine railways, dams and appurtenant facilities for the control of waterways;

2. Fire insurance – insurance against loss by fire, lightning, windstorm, tornado, earthquake, and other allied risks, when such risks are covered by extension to fire insurance policies or under separate policies;

3. Casualty insurance – insurance covering loss or liability arising from accident or mishap, excluding certain types of loss which by law or custom

are considered as falling exclusively within the scope of other types of insurance such as fire or marine. It includes, but is not limited to, employer's liability insurance, motor vehicle liability insurance, plate glass insurance, burglary and theft insurance, personal accident and health insurance as written by non-life insurance companies, and other substantially similar kinds of insurance; and

4. Contract of suretyship – an agreement whereby a party called the surety guarantees the performance by another party called the principal or obligor of an obligation or undertaking in favor of a third party called the obligee. It includes official recognizances, stipulations, bonds, or undertakings issued by any company by virtue of Act No. 536, as amended by Act No. 2206.

B. Regulatory framework

The Insurance Commission (IC) is the government agency responsible in regulating the insurance industry in the country. Entities seeking to engage in the non-life insurance market must obtain their license from the IC before being allowed to offer and provide non-life insurance products to the general public. Such entities include, but are not limited to the following: (a) corporations, partnerships, or associations as defined in Section 6 of the Insurance Code, as amended; (b) mutual benefit associations; (c) cooperative insurance; and (d) government-owned or controlled corporations engaged in the business of marine, fire and casualty insurance, and other forms of property insurance.

The Insurance Code, as amended, laid out the specific requirements for insurance companies in the country. In terms of capitalization, new domestic non-life insurance companies are required to have a minimum paid-up capital (PUC) of at least P1 billion pursuant to Section 194 of the Insurance Code, as amended. Meanwhile, companies that were already operating in the country at the time of the effectivity of the said law are required to have a minimum PUC of P250 million by June 30, 2013, which should increase every three years per Section 194 of RA 10607 to P550 million by December 31, 2016, P900 million by December 31, 2019, and P1.30 billion by December 2022.

On the other hand, the rules are more stringent for foreign insurance companies. Under Sec. 197 of the Insurance Code, as amended, no foreign companies are allowed to operate in the country unless they have unimpaired capital or assets and reserve of not less than P1 billion. They are also required to deposit with the IC for the benefit and security of their policyholders and creditors in the Philippines, securities satisfactory to the IC Commissioner consisting of good securities in the country, including new issues of stock of registered enterprises with actual market value of not less than the amount required, provided that at least 50% of such securities shall consist of bonds or other instruments of debt of the Government of the Philippines, its political subdivisions and instrumentalities, or of GOCCs and entities, including the Bangko Sentral ng Pilipinas (BSP). Provided, further, that its total investment in any registered enterprise shall not exceed 20% of the net worth of said foreign insurance company nor 20% of the capital of the registered enterprise, unless previously authorized in writing by the Commissioner.

In terms of reserve requirements, non-life insurance companies shall maintain a reserve for unearned premiums on their policies in force, which shall be charged as a liability in any determination of its financial condition. Such reserve shall be calculated based on the 24th method[1]. Foreign companies, be it life or non-life, are required to set aside an amount corresponding to the legal reserves of the policies written in the Philippines, which shall be invested only in the classes of Philippine securities described in Section 206 of the Investment Code, as amended. No investment in stocks or bonds of any single entity shall, in the aggregate exceed 20% of the net worth of the investing company or 20% of the capital of the issuing company, whichever is the lesser, unless otherwise approved in writing by the IC. The securities purchased and kept in the Philippines shall not be sent out of the territorial jurisdiction of the Philippines without the written consent of the IC.

Aside from the abovementioned requirements, the IC also makes sure that the policyholders and the public as a whole are adequately protected by demanding quality management from insurance companies. It requires that the directors or officers to be elected or appointed are of good moral character, unquestioned integrity, and recognized competence. Moreover, before the IC issues a certificate of authority, the Commissioner must be satisfied that the name of the company is not that of any other known company transacting a similar business in the Philippines, or a name so similar as to be calculated to mislead the public. The IC also requires foreign companies to file a written power of attorney designating some person who shall be a resident of the Philippines as its general agent, on whom any notice provided by law or by any insurance policy, proof of loss, summons, and other legal processes may be served in all actions or other legal proceedings against such company, and consenting that service upon such general agent shall be admitted and held as valid as if served upon the foreign company at its home office. Such foreign company shall make and file with the Commissioner an agreement or stipulation, executed by the proper authorities of said company in form and substance provided under Section 196 of the Amended Insurance Code.

Upon accomplishing all the requirements, the IC will grant the certificate of authority to the insurance company. The certificate of authority will expire on the last day of December, three years following the date of its issuance, and can be renewed every three years thereafter, provided that the company continues to comply with the provisions of the Amended Insurance Code, instructions, rulings, or decisions of the IC.

[1] An accounting method for computing an unearned premium reserve. It is computed by combining premiums having the same term (e.g., twelve, six, three or one month, or any other term), each group being divided by the month in which premiums where written and each premium deemed to have been written in the middle of the month. It is based on the assumption that premiums are received evenly over each month and risk is spread evenly over the year.

There also exists companies that conduct both life and non-life insurance businesses concurrently called composite insurance companies. However, the term "composite insurance company" was not mentioned in the Insurance Code, as amended, although Section 193 of the Code mentions that "No insurance company may be authorized to transact in the Philippines the business of life and non-life insurance concurrently unless specifically authorized to do so by the Commissioner." Aside from confirming that composite insurance companies may operate in the country, no other information was given about the regulation of said entities in the Code. However, as early as 1992, the capitalization requirements of composite insurance companies have always been computed separately for their life and non-life businesses. As per the IC Department Order (DO) No. 27-1992, a new composite insurance company shall have a PUC of no less than P150 million: P75 million for its non-life business and the other P75 million for its life business. Moreover, at least P50 million contributed surplus fund was also required by the DO, P25 million of which is for the non-life business while the other P25 million is for the life business.

Two decades later, this policy on the capitalization requirements of composite insurance companies was reiterated in DO 15-2012, as follows:

Table 1

PUC Amounts and Schedule of Compliance for Insurance Companies with Existing License

Paid-up capital (In pesos)	Compliance date
250,000,000.00	On or before December 31, 2012 (Pursuant to DO 27-2006 and IMC No. 10-2006)
400,000,000.00	On or before December 31, 2014
600,000,000.00	On or before December 31, 2016
800,000,000.00	On or before December 31, 2018
1,000,000,000.00	On or before December 31, 2020

C. Profile of the industry

The non-life insurance business has always dominated the insurance industry since its introduction in the 1880s. Data show that there were 61 non-life insurance companies on average from 2017 to 2021, 50 of which were domestic companies while the remaining 11 were foreign companies. This is more than double the 27 average number of life insurance companies in the country, of which 18 were domestic while nine were foreign companies. On the other hand, there were five composite insurance companies on average from 2017 to 2021, three of which were domestic companies while the remaining two were foreign companies (See Table 2).

Table 2

Number of Insurance Companies in the Philippines, CYs 2017-2021

Year	Composite			Life			Non-Life			Total
	Domestic	Foreign	Total	Domestic	Foreign	Total	Domestic	Foreign	Total	
2017	3	1	4	20	9	29	53	11	64	98
2018	3	2	5	19	9	28	49	11	60	94
2019	3	2	5	17	9	26	50	11	61	93
2020	3	2	5	18	10	28	50	11	61	95
2021	3	2	5	17	10	27	47	11	58	91
Average	3	2	5	18	9	28	50	11	61	94

Note. Data gathered from Insurance Commission. (2023). *Key statistical data 2017 – 2021*. Retrieved from https://www.insurance.gov.ph/summary-from-2017-2021-preliminary-figures/

According to the Financial Inclusion in the Philippines Dashboard of the BSP, there were an average of 132 million policy owners (including dependents) from 2017 to 2021, 26.54 million or 20.04% of which were covered by non-life insurance companies. Meanwhile, life insurance companies and Mutual Benefit Associations (MBA)[2] cover the majority of policyholders at 53.28 million (40.59%) and 52.64 million (39.70%), respectively. This suggests that even though non-life insurance companies dominate the population of insurance companies in the country, the number of non-life policyholders remains low compared to other types of insurance products (See Table 3 and Figure 1).

Table 3

Number of Policyowners, Including Dependents, by Type of Insurance Provider, 2017-2021 (In Million Pesos)

Year	Non-life insurance companies	Life insurance companies	MBAs	Total
2017	23.00	43.40	39.60	106.00
2018	14.10	50.90	46.70	111.70
2019	25.70	53.40	52.40	131.50
2020	37.00	58.20	59.20	154.40
2021	32.90	60.50	65.30	158.70
Average	26.54	53.28	52.64	132.46

[2] Any society, association or corporation, without capital stock, formed or organized not for profit but mainly for the purpose of paying sick benefits to members, or of furnishing financial support to members while out of employment, or of paying to relatives of deceased members of fixed or any sum of money.

Note. Data gathered from Bangko Sentral ng Pilipinas. (2017). *Financial inclusion in the Philippines dashboards as of fourth quarter 2017.* Retrieved from https://www.bsp.gov.ph/Media_And_Research/Financial%20Inclusion%20Dashboard/2017/FIDashboard_4Q2017.pdf

Data gathered from Bangko Sentral ng Pilipinas. (2018). *Financial inclusion in the Philippines dashboards as of fourth quarter 2018.* Retrieved from https://www.bsp.gov.ph/Media_And_Research/Financial%20Inclusion%20Dashboard/2018/FIDashboard_4Q2018.pdf

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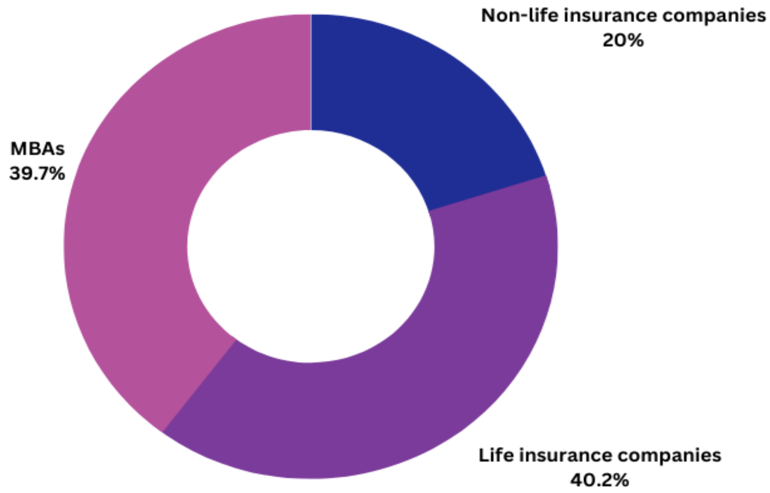
Figure 1

Percentage Share of Policy Owners, Including Dependents, by Type of Insurance Provider, 2017-2021



Note. This figure is based from the Table 3 data.

However, although the number of players in the non-life insurance industry remained virtually the same, the profitability of the product continued to increase over the years. The net premiums written by non-life insurance companies grew by 2.30% on an annual average, reaching P49.82 billion from 2017 to 2021. In 2020, a slight decline in the net premiums collected can be observed where the amount fell from P53.86 billion in 2019 to 47.56 billion, recording a -11.70% growth rate. This decrease can be attributed to the COVID-19 pandemic measures implemented by the government to mitigate its negative impact on Filipino citizens. RA 11469, otherwise known as the "Bayanihan to Heal as One Act", was enacted during the pandemic to provide an emergency subsidy to low-income households and individuals, tax reliefs, a grace period for the payment of all taxes, loans, and rents, among others. Insurance premiums were not covered by the mandatory grace period in RA 11469 since they do not represent payments for loan obligations. Nevertheless, the IC encouraged all insurance companies to extend the grace period for the payment of insurance premiums or contributions by at least another 31 days pursuant to its Circular Letter (CL) 2020-18. It also urged all institutions offering insurance to extend the coverage of their health insurance policies and HMO agreements to customers infected with COVID-19 or any related conditions and waive provisions in their respective health insurance contracts that may become barriers to health care access and treatment pursuant to CL 2020-24.

By type of non-life insurance product, motor car insurance collected the most profits with an average of P25.53 billion (51.23% share) within the years under review, followed by casualty insurance at P12.24 billion (24.56%), fire insurance at P6.33 billion (12.70%), contract of suretyship at P3.81 billion (7.65%), and marine insurance at P1.92 billion (3.86%) (See Table 4 and Figure 2).

Table 4

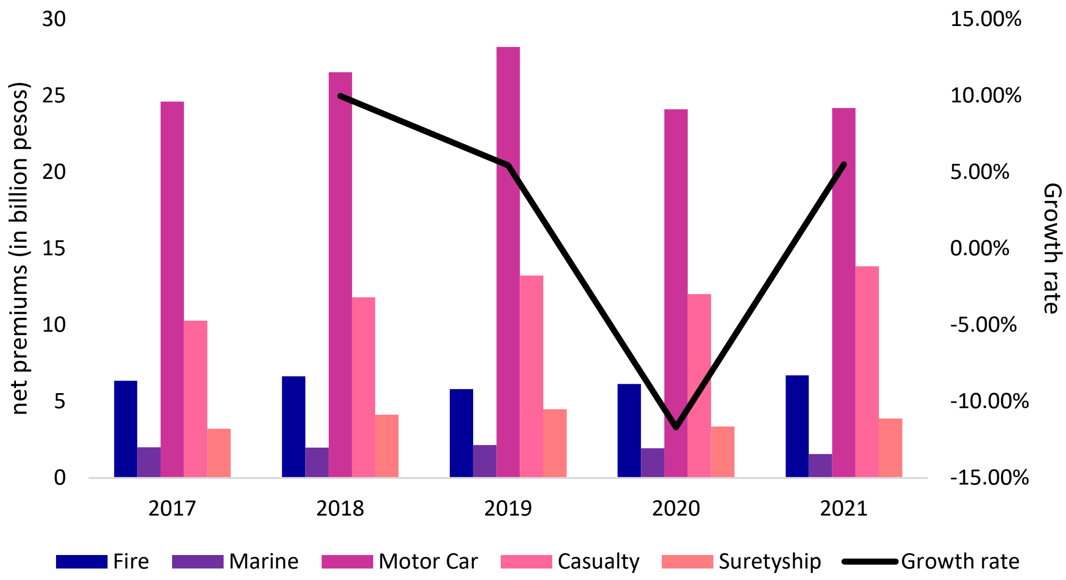
Non-life Insurance Net Premiums by Type of Product, 2017 – 2021 (In Billion Pesos)

Particulars	2017	2018	2019	2020	2021	Average	% Share
Fire	6.34	6.64	5.81	6.14	6.71	6.33	12.70
Marine	2.00	1.98	2.14	1.94	1.56	1.92	3.86
Motor Car	24.61	26.54	28.19	24.11	24.18	25.53	51.23
Casualty	10.28	11.80	13.23	12.02	13.84	12.24	24.56
Suretyship	3.21	4.13	4.49	3.35	3.88	3.81	7.65
Total	46.45	51.08	53.86	47.56	50.18	49.83	100.00

Note. Data gathered from Insurance Commission. (2023). *Key statistical data 2017 – 2021.* Retrieved from https://www.insurance.gov.ph/summary-from-2017-2021-preliminary-figures/

Figure 2

Non-Life Insurance Net Premiums, 2017-2021 (In Billion Pesos)



Note. This figure is based from the Table 4 data.

III. TAXATION OF NON-LIFE INSURANCE

Pursuant to the National Internal Revenue Code (NIRC) of 1997, as amended, commercial non-life insurance companies are subject to the regular corporate income tax (RCIT) based on their net income or to the minimum corporate income tax (MCIT) based on their gross income. Upon the enactment of RA 11534, otherwise known as the "Corporate Recovery and Tax Incentives for Enterprises Act" (CREATE Act), domestic corporations with net taxable income not exceeding P5 million and with total assets (excluding land where the business entity's office, plant, and equipment are situated) not exceeding P100 million shall be taxed at 20% CIT, while all other domestic corporations and resident foreign corporations are subject to 25% CIT. Effective January 1, 2021, the CIT rate for nonresident foreign corporations is 25% from the previous 30%. On the other hand, an MCIT of 2% of the gross income beginning in the fourth taxable year following the year of commencement of business operations shall apply when the MCIT is greater than the computed CIT under Section 27(A) of the NIRC of 1997, as amended. However, as a temporary COVID-19 relief measure, the MCIT rate was reduced to 1% effective July 1, 2020, until June 30, 2023.

With regard to their income from investments and other passive income, the taxation is the same with other corporations as they basically invest in the same kinds of securities. The investment income of non-life insurance firms is subject to a final withholding tax (FWT) which ranges from exempt to 20%, depending on the type of security and the type of passive income such as interests, dividends, and capital gains. For example, the interest income of a regular peso deposit of non-life insurance companies is subject to 20% FWT; capital gains from the sale of unlisted shares of stock are subject to 15% capital gains tax; sale, barter or exchange of shares of stock listed and traded through the local stock exchange is subject to 0.60% stock transaction tax; and intercorporate dividends are exempt from income tax.

Moreover, non-life insurance companies are subject to a 12% value-added tax (VAT) based on the gross receipts of non-life products they offer as per Section 108 of the NIRC of 1997, as amended. In the case of fire, earthquake, and explosion hazard insurance, a fire service tax of 2% of all premiums, excluding reinsurance premiums, is also imposed pursuant to Section 12 of RA 9514, or the “Revised Fire Code of the Philippines of 2008”.

Non-life insurance policies are also subject to the DST depending on the instrument/transaction. On policies of insurance upon properties, as well as on fidelity bonds and other insurance policies, the DST is P0.50 on each P4.00 (12.50%) of the amount of premium charged shall be collected. For health and accident insurance policies issued by a non-life company, the same DST rates imposed on life insurance under Section 183 apply, to wit:

Table 5

DST Rates Imposed on Health and Accident Insurance Policies Issued by a Non-life Company

Particulars	DST
If the amount of insurance does not exceed P100,000	Exempt
If the amount of insurance exceeds P100,000 but does not exceed P300,000	P20.00
If the amount of insurance exceeds P300,000 but does not exceed P500,000	P50.00
If the amount of insurance exceeds 500,000 but does not exceed 750,000	P100.00
If the amount of insurance exceeds P750,000 but does not exceed P1,000,000	P150.00
If the amount of insurance exceeds P1,000,000	P200.00

Meanwhile, indemnity bonds are subject to a DST of P0.30 on each P4.00 (7.50%) of the premium charged.

The total tax collection from the non-life insurance industry reached an average of P17.83 billion from 2017 to 2021, growing by 9.81% annually. On average, P8.68 billion (48.66%) was paid as DST, P8.29 billion (46.47%) as VAT, P770 million as CIT, and P100 million as FWT. In 2020, a 7.51% decline in the collection was observed, owing to the economic slowdown brought about by the COVID-19 pandemic during the said year. However, tax collection quickly recovered in 2021, increasing by 20.97% from P17.60 billion to P21.29 billion (See Table 6).

Table 6

Total Tax Collection from the Non-Life Insurance Industry by Type of Major Taxes 2017 – 2021 (In Billion Pesos)

Year	CIT	FWT	VAT	DST	Total	Growth rate (%)
2017	0.63	0.09	6.65	7.58	14.95	-
2018	0.82	0.08	7.17	8.21	16.28	8.90
2019	0.81	0.14	8.98	9.1	19.03	16.89
2020	0.81	0.08	8.24	8.47	17.60	(7.51)
2021	0.77	0.11	10.39	10.02	21.29	20.97
Average	0.77	0.10	8.29	8.68	17.83	9.81
% share to total	4.31	0.56	46.47	48.66	100.00	-

Note. Bureau of Internal Revenue, official communication, May 30, 2023.

IV. PROPOSALS UNDER PACKAGE 4 OF THE CTRP

Package 4 of the CTRP is primarily designed not to generate revenue for the government but to fix the tax system to deepen the capital and financial markets,[3] so in the long term can generate a future revenue stream to fund the government's priority programs, create more and better jobs, and boost the inclusive and sustainable growth of the economy. It aims to achieve a simpler, fairer, more efficient, and regionally competitive tax system for passive income and financial intermediaries. The current Package 4 bill, or House Bill No. 4339, was approved on the third and final reading at the House of Representatives on November 14, 2022, and was transmitted to the Senate on November 15, 2022. Currently, there are four Package 4 bills filed in the Senate.

One of the primary objectives of Package 4 includes the rationalization of DST on financial transactions to reduce the friction cost in the capital market and financial intermediation. Under Package 4, all DST on non-life insurance products will be unified.

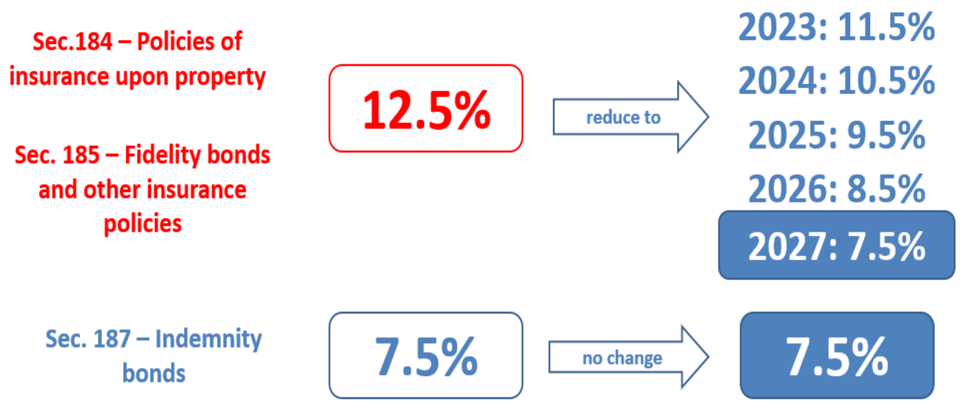
Currently, the 12.50% DST imposed on non-life insurance products under Section 184 of the NIRC of 1997, as amended, is the highest among the instruments/transactions liable to the DST. Package 4 will gradually reduce the DST on non-life insurance products by 1%

[3] A deep capital market is indicated by a high number of instruments traded in the exchange (spread), high amount if capital represented by each of those instruments (capitalization), and high volume of those instruments that change hands each trading day (liquidity) (Umeano, 2021).

every year until it reaches 7.50%. Likewise, the DST on fidelity bonds and other insurance policies under Section 185 will be gradually reduced by 1% every year until it reaches 7.50%. While DST on indemnity bonds under Section 187 is retained at 7.50%. These measures are proposed to lower friction costs and harmonize the DST on all non-life and similar insurance products (See Figure 3).

Figure 3

Proposed Reforms on the Taxation of Non-Life Insurance Under Package 4



From 2016 to 2021, the government through the BIR collected an average of P9.68 billion and P855.53 million in tax revenues from the DST on policies of insurance upon property and the DST on fidelity bonds and other insurance policies, respectively. Using the available data, the estimated DST collection that will be collected as the rates are decreased are as follows:

Table 7

Projected Non-Life DST Collection Under Package 4 (In Billion Pesos)

BIR DST Collection			
Year	Tax rate (%)	Section 184	Section 185
2016	12.50	7.84	0.77
2017	12.50	8.94	0.75
2018	12.50	9.20	0.89
2019	12.50	10.90	0.92
2020	12.50	9.69	0.80
2021	12.50	11.49	1.00
2022[a]	12.50	1.06	12.37

Projected DST Collection

Year	Tax rate (%)	Section 184	Section 185
2023	11.50	(1.06)	(0.09)
2024	10.50	(2.29)	(0.19)
2025	9.50	(3.70)	(0.30)
2026	8.50	(5.30)	(0.42)
2027	7.50	(7.13)	(0.56)
2028	7.50	(7.67)	(0.59)
Total		(27.15)	(2.15)

Note. [a] BIR data for 2022 is not yet available. Value estimated using collections from previous years.

Looking at the estimated values, the government is expected to forego a total of P29.30 billion on the proposed gradual reduction of DST rates on non-life insurance products. However, it is important to highlight that the main purpose of Package 4 is to fix the tax system to deepen the capital market and encourage financial inclusion. Hence, it is only expected that the government will incur some losses, albeit insignificant if juxtaposed to the benefits it may bring to the Filipino people, the non-life insurance industry, and the BIR in terms of higher tax compliance and simpler tax administration.

V. COMPARATIVE TAX TREATMENT OF NON-LIFE INSURANCE IN ASEAN COUNTRIES

A. Brunei Darussalam

Brunei Darussalam imposes a CIT at the statutory rate of 18.50% charged at a threshold basis, as follows: (a) 25% of the first BND100,000 (PHP3.93 million)[4] in assessable income; and (b) 50% of the next BND150,000 (PHP5.91 million) in assessable income (Medina, 2022). Non-life policies are also subject to stamp duty at varying rates depending on the type of policy, as follows: (Attorney General's Chambers, 2003)

1. Policy of sea insurance –

   a. when the amount insured does not exceed BND1,000 (PHP39,367.42) – 10 cents (PHP3.94)

   b. when the amount insured exceeds BND1,000 (PHP39,367.42) – 25 cents (PHP9.84)

   c. for time policies on hulls of vessels, for every BND1,000 (PHP39,367.42) or part thereof insured – 25 cents (PHP9.84);

[4] Data for the exchange rate gathered from Bangko Sentral ng Pilipinas. (n.d.). *Monthly and annual Philippine peso cross rates.* Retrieved May 30, 2023 from https://www.bsp.gov.ph/sitepages/statistics/exchangerate.aspx

2. Fire policy – 25 cents (PHP9.84); and

3. Accident Policy – 10 cents (PHP3.94).

B. Cambodia

In Cambodia, an enterprise having principal activity in the insurance or reinsurance of property or other risks is liable to an income tax at the rate of 5% of the gross premiums received in the tax year of the insurance and reinsurance of risk. For its non-insurance activities, a 20% tax on profit applies (Fontaine, 2022). Insurance services in the country are considered non-taxable supplies and are therefore exempt from VAT (PwC, 2023).

C. Indonesia

Non-life insurance companies in Indonesia are generally subject to a flat rate of 22% CIT. A public insurance company is entitled to a 3% tax cut off the standard rate, provided that it satisfies the following conditions: (1) at least 40% of their paid-in shares are listed in the local stock exchange; and (2) the public consists of at least 300 parties, each holding less than 5% of the paid-in shares (PwC Indonesia, 2022). Moreover, insurance contracts are also subject to stamp duty at the standard rate of IDR10,000 (PHP36.79)[5] (Koty, 2021). Similar to Cambodia, insurance services in Indonesia are exempt from VAT (Deloitte, 2022).

D. Lao PDR

All companies, including non-life insurance companies, incorporated under Lao PDR's jurisdiction are subject to a profit tax (PT) on their worldwide income, while foreign companies will be subject to the PT on their income derived within the country. The standard PT rate is 20% but may be reduced to 13% if the company becomes public (PwC, 2023). Further, non-life insurance is generally subject to 7% VAT except for activities relating to health insurance (DFDL, 2019; Tilleke & Gibbins, 2021).

E. Malaysia

In Malaysia, non-life insurance companies are subject to 24% CIT on income accruing in or derived in the country. A service tax of 6% ad valorem is also imposed on all licensed insurers or takaful operators (PwC Malaysia, 2023). As for stamp duty, according to Inland Revenue Board of Malaysia (2021), policies of sea insurance, fire

[5] Data for the exchange rate gathered from Bangko Sentral ng Pilipinas. (n.d.). *Monthly and annual Philippine peso cross rates.* Retrieved May 30, 2023 from https://www.bsp.gov.ph/sitepages/statistics/exchangerate.aspx

policies, accident policies, third-party policies, and comprehensive policies[6] are all subject to a tax of RM10.00 (PHP123.87)[7].

F. Myanmar

Non-life insurance companies in Myanmar that are incorporated and operating under the Myanmar Companies Act or in conjunction with the Myanmar Investment Law or Myanmar Special Economic Zone Law are subject to 22% CIT. Resident companies are taxed on a worldwide income basis, while non-resident companies and those operating under the Myanmar Special Economic Zone Law are taxed only on income from sources within the country (PwC, 2023). A commercial tax at the rate of 5% is also levied on all services in Myanmar, including non-life insurance services (PwC, 2023). Further, certain types of non-life insurance policies are subject to stamp duty under the Myanmar Stamp Act, to wit:

1. Sea insurance – MMK10.00 (PHP0.28)[8];
2. Fire insurance and other classes of insurance covering goods, merchandise, personal effects, crops, and other property against loss or damage – MMK50 (PHP1.42) (when the sum insured does not exceed MMK500,000.00 (PHP14,165)) and MMK100 (PHP2.83) (general rate);
3. Accident and sickness insurance – MMK10.00 (PHP0.28) (against railway accident valid for a single journey only) and MMK30.00 (PHP0.85) (general rate); and
4. Insurance by way of indemnity – MMK10.00 (PHP0.28).

G. Singapore

Meanwhile, a regular CIT at the rate of 17% is imposed on non-life insurance companies in Singapore as per the Income Tax Act of 1947. However, the Minister may make regulations to provide for concessionary rates ranging from exempt to 10% subject to certain conditions (Singapore Statutes Online, 2023). The provision of non-life insurance contracts is also considered a taxable supply of services and is therefore subject to the goods and services tax or GST at the rate of 8% on the premiums collected unless it qualifies as an international service which can be zero-rated (Inland Revenue Authority of Singapore, 2023).

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[6] Combining any two or more of the following risks – fire, personal injury, or sickness of the insured, damage, loss, theft, and third-party claims.

[7] Data for the exchange rate gathered from Bangko Sentral ng Pilipinas. (n.d.). *Monthly and annual Philippine peso cross rates.* Retrieved May 30, 2023 from https://www.bsp.gov.ph/sitepages/statistics/exchangerate.aspx

[8] Data for the exchange rate gathered from Exchange-Rates.Org. (n.d.). *Myanmar kyat (MMK) to Philippine peso (PHP) exchange rate history for 2022*. Retrieved May 30, 2023 from https://www.exchange-rates.org/exchange-rate-history/mmk-php-2022

H. Thailand

Non-life insurance companies that were incorporated in Thailand are subject to the standard CIT rate of 20% on their worldwide income, while foreign companies are taxed on their profits arising from their business carried on in the country (PwC, 2023). VAT is also levied on non-life insurance policies at 7% (the standard rate is 10%, but is currently reduced to 7% until September 30, 2024, unless further extended by the government) based on premium and stamp duty on the policy which insurers collect from insured (KPMG, 2023). Furthermore, stamp duty at the following rate is imposed on non-life insurance policies under the Revenue Code of Thailand:[9]

1. Insurance policy against loss (for every THB250 (PHP388.88)[10] or fraction thereof of the insurance premium) – THB1.00 (PHP1.56);

2. Any other insurance policy (For every THB2,000 (PHP3,111.06) or fraction thereof of the amount insured) – THB1.00 (PHP1.56);

3. Annuity policy (For every THB2,000 (PHP3,111.06) baht or fraction thereof of the principal amount, or, if there is no principal amount, for every THB2,000 (PHP3,111.06) or fraction thereof of 33 1/3 times the annual income) – THB1.00 (PHP1.56);

4. Insurance policy where reinsurance is made by an insurer to another person – ½ of the rate for the original policy; and

5. Renewal of insurance policy – ½ of the rate for the original policy.

I. Vietnam

In Vietnam, non-life insurance companies are subject to the standard CIT rate of 20%, as well as a VAT at the standard rate of 10%, except for the following: health insurance and reinsurance are allowed VAT exemptions; companies may enjoy a 0% VAT for insurance services provided to companies located in non-tariff zones or overseas organizations and individuals; and overseas organization without a permanent establishment in Vietnam are not subject to VAT (Nguyen, 2022).

Annex A provides the comparative tax treatment of non-life insurance in ASEAN countries.

[9] Data for stamp duty gathered from The Revenue Department of Thailand. (2020). *Stamp Duty.* Retrieved from https://www.rd.go.th/english/21986.html

[10] Data for the exchange rate gathered from Bangko Sentral ng Pilipinas (n.d.). *Monthly and annual Philippine peso cross rates.* Retrieved May 30, 2023 from https://www.bsp.gov.ph/sitepages/statistics/exchangerate.aspx

VI. CONCLUSION

Non-life insurance has indeed proven itself as an essential component of present-day life. Recent data shows that the industry remains resilient and poised for growth despite the challenges it faced during the COVID-19 pandemic. However, there is still much work to be done in terms of improving public access, particularly to the underserved segments of society.

The COVID-19 pandemic highlighted the importance of insurance especially for the vulnerable and low-income populations. As Filipinos become more aware of the importance of having insurance during the pandemic to help rebuild their lives, Package 4 provides needed tax reliefs on non-life insurance to encourage them to patronize these products and help them live life knowing that they have financial security. The proposal to equate the differentiated DST rates imposed on non-life insurance products will surely increase the accessibility of said financial products by making them more affordable for everyone. This will also make tax compliance and administration much simpler, which will ultimately result in significant progress in the non-life insurance industry and in the long run, higher revenue for the government.

References

Asian Development Bank. (2020, April 3). Philippine GDP growth to slide in 2020 due to COVID-19, strong rebound seen in 2021 — ADB. https://www.adb.org/news/philippine-gdp-growth-slide-2020-due-covid-19-strong-rebound-seen-2021-adb

Attorney General's Chambers. (2003, July 1). *Chapter 34 stamp act.* https://www.agc.gov.bn/AGC%20Images/LAWS/ACT_PDF/cap034.pdf

Deloitte. (2022). *Indonesia tax guide 2022 - 2023*. https://www2.deloitte.com/content/dam/Deloitte/id/Documents/tax/id-tax-guide-2022-2023.pdf

Fontaine, A. (2022, April 24). *The insurance and reinsurance law review: Cambodia*. The Law Reviews. https://thelawreviews.co.uk/title/the-insurance-and-reinsurance-law-review/cambodia

Inland Revenue Authority of Singapore. (2023). *IRAS e-Tax guide - GST: guide for the insurance industry (seventh edition).* https://www.iras.gov.sg/media/docs/default-source/e-tax/etaxguide_gst_guide-for-the-insurance-industry-(fifth-edition)c87f527e-f5a9-4215-9c3b-088e68261654.pdf?sfvrsn=38871d2f_8

Inland Revenue Board of Malaysia. (2021, June 1). Stamp act 1949. https://phl.hasil.gov.my/pdf/pdfam/Act_378_01062021_2.pdf

Koty, A. C. (2021, September 7). *Stamp duty in Indonesia: new law in effect*. ASEAN Briefing. https://www.aseanbriefing.com/news/stamp-duty-in-indonesia-new-law-in-effect/

KPMG. (2023, September 20). *Thailand: Reduced 7% VAT rate extended to 30 September 2024*. https://kpmg.com/us/en/home/insights/2023/09/tnf-thailand-reduced-vat-rate-extended-30-september-20241.html

Medina, A. F. (2022, July 8). *A Guide to taxation in Brunei*. ASEAN Briefing. https://www.aseanbriefing.com/news/a-guide-to-taxation-in-brunei/

Nguyen, N. T. (2022, December 2022). *Insurance and reinsurance in Vietnam: overview*. Thomson Reuters Practical Law. https://uk.practicallaw.thomsonreuters.com/2-568-9187?contextData=(sc.Default)&transitionType=Default&firstPage=true#co_anchor_a679443

PwC. (2023, February 15). *Cambodia*. Worlwide Tax Summaries. https://taxsummaries.pwc.com/Cambodia/Corporate/Other-taxes

PwC. (2023, January 16). *Lao PDR*. Worldwide Tax Summaries. https://taxsummaries.pwc.com/lao-pdr/corporate/taxes-on-corporate-income

PwC. (2023, March 1). *Myanmar*. Worldwide Tax Summaries. https://taxsummaries.pwc.com/myanmar/corporate/taxes-on-corporate-income

PwC. (2023, March 1). *Myanmar*. Worldwide Tax Summaries. https://taxsummaries.pwc.com/myanmar/corporate/other-taxes

PwC. (2023, February 23). *Thailand.* Worldwide Tax Summaries. https://taxsummaries.pwc.com/thailand/corporate/taxes-on-corporate-income

PwC Indonesia. (2022). *Indonesian pocket tax book 2022.* PT Prima Wahana Caraka.

PwC Malaysia. (2023). *2022/2023 Malaysian tax booklet*. https://www.pwc.com/my/en/publications/mtb.html

Singapore Statutes Online. (2023, May 2). *Income tax act 1947.* https://sso.agc.gov.sg/Act/ITA1947?ProvIds=P11-#P11-

The Revenue Department of Thailand. (2020, March 12). *Stamp duty*. https://www.rd.go.th/english/21986.html

Annex A

Comparative Tax Treatment of Non-life Insurance in ASEAN Countries

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
Philippines	20% RCIT – domestic corporations with net taxable income not exceeding P5 million and with total assets (excluding land where the business entity's office, plant, and equipment are situated) not exceeding P100 million; 25% RCIT – all other domestic corporations and resident foreign corporations; 2% MCIT (1% until June 30, 2023) – when the MCIT is greater than the computed CIT.	12% VAT based on the gross receipts	Fire service tax – 2% of all premiums, excluding reinsurance premiums on fire, earthquake, and explosion hazard insurance.	On policies of insurance upon properties - PHP0.50 on each PHP4.00 (12.5%) of the amount of premiums charged; On fidelity bonds and other insurance policies - PHP0.50 on each PHP4.00 (12.5%) of the amount of premiums charged; On indemnity bonds – 7.5% of the premium charged.
Brunei Darussalam	18.5% CIT charged at a threshold basis, as follows: (a) 25 percent of the first BND100,000 (PHP3.93	N/A	N/A	Policy of sea insurance – (a) when the amount insured does not exceed

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
	million) in assessable income; and (b) 50 percent of the next BND150,000 (PHP5.91 million) in assessable income.			BND1,000 (PHP39,367.42) – 10 cents (PHP3.94) (b) when the amount insured exceeds BND1,000 (PHP39,367.42) – 25 cents (PHP9.84) (c) for time policies on hulls of vessels, for every BND1,000 (PHP39,367.42) or part thereof insured – 25 cents (PHP9.84); Fire policy – 25 cents (PHP9.84); Accident Policy – 10 cents (PHP3.94).
Cambodia	CIT of 5% of the gross premiums received in the tax year of the insurance and reinsurance of risk. For its non-insurance activities, a 20% tax on profit applies.	Exempt	N/A	N/A

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
Indonesia	22% CIT. A public insurance company is entitled to a 3% tax cut off the standard rate, subject to certain conditions.	Exempt	N/A	IDR10,000 (PHP36.79) – standard rate
Lao PDR	20% standard profit tax, but may be reduced to 13% if the company becomes public.	7% Vat, except for activities relating to health insurance	N/A	N/A
Malaysia	24% CIT	N/A	6% service tax	Policies of sea insurance, fire policies, accident policies, third party policies, and comprehensive policies – RM10.00 (PHP123.87)
Myanmar	22% CIT – companies that are incorporated and operating under the Myanmar Companies Act or in conjunction with the Myanmar Investment Law or Myanmar Special Economic Zone Law.	N/A	5% commericial tax	Sea insurance – Kyat 10.00 (PHP0.28); Fire insurance and other classes of insurance covering goods, merchandise, personal effects, crops, and other property against loss or damage – MMK50 (PHP1.42) (when the sum insured does not exceed MMK500,000.00

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
				(P14,165)) and MMK100 (PHP2.83) (general rate); Accident and sickness insurance – MMK10.00 (PHP0.28) (against railway accident valid for a single journey only) and MMK30.00 (PHP0.85) (general rate); and Insurance by way of indemnity – MMK10.00 (PHP0.28).
Singapore	17% CIT, but the Minister may make regulations to provide for concessionary rates ranging from exempt to 10% subject to certain conditions	N/A	8% goods and services tax (GST) on the premiums collected unless it qualifies as an international service which can be zero-rated	N/A
Thailand	20% CIT	7% VAT (the standard rate is 10%, but is currently reduced to 7% until September 30, 2023 unless further extended by the government) based on premium and stamp duty on	N/A	Insurance policy against loss (for every THB250 (PHP388.88) or fraction thereof of the insurance premium) – THB1.00 (PHP1.56);

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
		the policy which insurers collect from insured		Any other insurance policy (For every THB2,000 (PHP3,111.06) or fraction thereof of the amount insured) – THB1.00 (PHP1.56); Annuity policy (For every THB2,000 (HPP3,111.06) or fraction thereof of the principal amount, or, if there is no principal amount, for every THB2,000 (PHP3,111.06) or fraction thereof of 33 1/3 times the annual income) – THB1.00 (PHP1.56); Insurance policy where reinsurance is made by an insurer to another person – ½ of the rate for the original policy; and Renewal of insurance policy – ½ of the rate for the original policy.

Country	Nature and rate of tax			
	CIT	VAT	VAT-like taxes/other business taxes	DST/Stamp duty
Vietnam	20% CIT	10% VAT, except for the following: health insurance and reinsurance are allowed VAT exemptions; companies may enjoy a 0% VAT for insurance services provided to companies located in non-tariff zones or overseas organizations and individuals; and overseas organization without a permanent establishment in Vietnam are not subject to VAT.	N/A	N/A

Review of the Philippine Agricultural Insurance*

I. INTRODUCTION

The agricultural sector is a major contributor to the Philippine economy with a significant portion of the population being involved in the production and marketing of different types of agricultural commodities like crops, fisheries, livestock, and poultry, among others. However, the country is also considerably one of the most vulnerable to the effects of climate change. Hence, agricultural insurance is an important industry that protects the agricultural sector and its stakeholders in particular and the economy in general.

This paper aims to review the current status of the country's agricultural insurance, identify the current gaps and challenges in its implementation, and provide an overview of its taxation and other relevant legislative proposals affecting the said industry to serve as valuable inputs to fiscal policymakers.

II. BACKGROUND INFORMATION

A. Agricultural insurance and its importance

The agricultural sector is not only considered complex but also inherently challenging as it is exposed to various risks such as uncertainties in weather, prices, and crop diseases. Although some risks can be mitigated through diverse set of traditional risk-coping strategies, approaches, and mechanisms, there are still those that are, more often than not, uncontrollable (See Table 1).

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Table 1

Risks in Agriculture

Nature of Risk	Description
Weather Risks	Deficit/Excess rainfall, extreme temperature (heat or cold)
Biological Risks	Pests, disease, contamination, soil degradation
Price Risks	Input output price volatility, shortage of inputs
Institutional Risks	Credit supply, interest rates, market distortions, support prices
Labor and Health Risks	Illness, death, injury, availability of labor
Political Risks	Agriculture policy, taxation, subsidies

Note: Chatterjee, A., & Oza, A. (2017). *Agriculture Insurance ADB Brief No. 77.* Retrieved from Asian Development Bank: http://dx.doi.org/10.22617/BRF178762-2

Because of the important role that agriculture plays in one's economy, there is a huge need to protect the industry from its ever-increasing risk exposure through insurance. Although agricultural insurance does not and cannot obliterate risk, it helps to manage risks arising from the production, changes in commodity prices, and climate and weather variability. In the Philippines, farmers avail agricultural insurance as substitute to access to credit in cash or in kind (inputs for production). Lending institutions require agricultural insurance from farmer-borrowers (Decena, 2016).

B. History of agricultural insurance in the Philippines

In 1976, a study was conducted by the Inter-Agency Committee for the Development of Crop Insurance, which was composed of various representatives from different government and private agencies. The study disclosed the feasibility of providing crop insurance protection to rice farmers covered by the supervised credit program[1], as well as to self-financed farmers who placed themselves under the supervision of duly accredited technicians.

As a result, the Philippine Crop Insurance Commission (PCIC) was created in 1978 pursuant to Presidential Decree (PD) No. 1467[2]. The PCIC is a government-owned and -controlled corporation, which provides insurance protection to farmers against losses arising from natural disasters as well as plant diseases and pest infestation, initially to palay crops and later on to other crops. Such insurance

[1] As early as the 1950's, the government was already providing agricultural credit programs but for agricultural mechanization only.

[2] Entitled, "Creating the "Philippine Crop Insurance Corporation" Prescribing its Powers and Activities, Providing for Its Capitalization and for the Required Government Premium Subsidy, and for Other Purposes", (June 11, 1978).

protection, however, excluded losses arising from avoidable risks emanating from or due to neglect, malfeasance or fraud by the insured or any member of his immediate farm household or employee or the failure of the insured to follow proven farm practices, and that the indemnity for such losses shall not exceed at all time the cost borne by the insured farmer in the production of the crop.

In 1988, PD 1467 was amended by PD 1733[3] to insure the attainment of the objective of the law. It highlighted the obligatory nature of crop insurance under the supervised credit program, providing that no lending institution shall grant palay production loan under the supervised credit program without crop insurance coverage. It also defined the duties and obligations of all lending institutions granting palay production loans under the supervised credit program. Penal sanction for violation of the provisions of the said Decree was likewise provided.

In 1995, PD 1467 was further amended by Republic Act (RA) No. 8175[4], which made the PCIC an attached agency of the Department of Agriculture (DA) for budgetary purposes. The said law also extended the insurance to the production of other crops other than palay and all other non-crop agricultural assets including but not limited to machineries, equipment, transport, facilities, and other infrastructures. This covers the cost of inputs, value of farmer's labor or of his household, and/or hired workers.

Since September 2021, the supervision of the PCIC has been transferred to the Department of Finance (DOF) by virtue of Executive Order No. 148[5] to ensure that its operations are rationalized and monitored centrally so that government assets and resources are used effectively, and the government's exposure to all forms of liabilities including subsidies is warranted and incurred through prudent measures.

C. Agricultural insurance programs in the Philippines

Estimates show that the Philippines is highly vulnerable to natural disasters and the impacts of climate change with 60% of land area and 74% of the population being prone to the occurrences of flood, cyclone, drought, earthquake, tsunami, and landslide. There are also at least 20 typhoons passing through the Philippine area of responsibility annually. Consequently, there have been a minimum of 565 disasters with death toll of 70,000 and damages valued at $23 billion since 1990 (Climate Change Knowledge Portal, 2021).

[3] Entitled, "Amending the Presidential Decree No. 1467 Creating the 'Philippine Crop Insurance Corporation' by Adding Penal Sanctions Therein", (October 21, 1980).

[4] Entitled, "An Act Further Amending Presidential Decree No. 1467, as amended, Otherwise Known as the Charter of the Philippine Crop Insurance Corporation (PCIC), in Order to Make the Crop Insurance System More Stable and More Beneficial to the Farmers Covered Thereby and for the National Economy, (December 29, 1995)."

[5] Entitled, "Transferring the Philippine Crop Insurance Corporation (PCIC) from the Department of Agriculture to the Department of Finance, and Reorganizing the PCIC Board of Directors, (September 14, 2021).

Hence, an effective and sufficient agricultural insurance is an integral part of agricultural production and supply chain of all types of crops, livestock, fisheries, or agricultural assets. This helps farmers to manage the risks and finance the next cycle or season of production. Agricultural insurance also cushions the cashflow of the farmers and their households, financing their basic consumption after external shocks which can be a useful instrument to reduce cyclical poverty (Reyes, 2019).

The following are some of the agricultural insurance programs being offered by the government and the private sector.

1. PCIC

The PCIC offers seven insurance lines, six of which cater to the majority of agricultural producers including those of rice, corn, high-value crops, livestock, non-crop agricultural assets, and fisheries. The other one focuses on the producer, providing credit and life term insurance including Accident and Dismemberment Security Scheme, Agricultural Producers Protection Plan, and Loan Repayment Protection Plan (Philippine Crop Insurance Corporation, n.d.). Moreover, the PCIC also implements other programs as funded by other government agencies such as the DA, Department of Agrarian Reform (DAR), and Land Bank of the Philippines (LBP), among others.

a. Rice and corn

The insurance for rice and corn shall cover the amount equivalent to the cost of production inputs as indicated in the Farm Plan Budget and an additional optional (subject to farmer discretion) amount of cover up to a maximum of 20% thereof as payment for the portion of expected foregone yield subject to a maximum cover ceiling per hectare depending on the variety planted (See Table 2).

Table 2

PCIC Maximum Cover Ceiling Per Crop Per Hectare, by Variety

Type of crop	Variety	Maximum cover (in pesos)
Rice	Inbred (Irrigated/Rainfed)	41,000
	Inbred (Seed Production)	50,000
	Hybrid (Commercial Production)	50,000
	Hybrid (Seed Production)	120,000

Type of crop	Variety	Maximum cover (in pesos)
Corn	Hybrid (Corn Production)	50,000
	Open-pollinated (Corn Production)	34,000
	Hybrid (Corn Seed Production)	76,000
	Open-pollinated (Corn Seed Production)	68,000

Notes. Rice data from Philippine Crop Insurance Corporation. (2022). *General information on the rice crop insurance program.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2023/05/HO-RICE-2022-JULY-V13.pdf
Corn data from Philippine Crop Insurance Corporation. (2022). *General information on the corn crop insurance program.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2023/05/HO-CORN2022-JULY-v13.pdf

Risks that are covered include natural disasters (typhoons, earthquake, flood, drought, tornado, and volcanic eruption), plant diseases (tungro, rice blast, grassy stunt, bacterial leaf blight, sheath blight, banded leaf blight, and bacterial stalk rot), and pest infestations (rats, locusts, armyworms, cutworms, stemborers, bugs, among others).

b. High value crops (HVCs)

As for the HVCs, the amount of cover shall be agreed upon by the PCIC and the assured farmer including the value of expected yield which is at most 120% of the production input costs (Philippine Crop Insurance Corporation, 2018). The period of coverage is one year for annual, biennial, and perennial crops[6] or less than one year for crops with early maturity.

c. Livestock

The livestock insurance program of the PCIC is available for both commercial and non-commercial production of cattle, carabao, horse, goat, sheep, and swine. The same is true for commercial poultry production including chicken and duck. The coverable number of animals per non-commercial grower ranges from 2 to 25, subject to a maximum sum insured of at least P15,000 per animal. On the other hand, minimum coverable number of animals per commercial grower ranges

[6] On the basis of their life cycles, plants are classified as either annual, biennial, or perennial crops. Annual crops complete their life cycle in one growing season (e.g., rice, corn, tomato, squash). Biennial crops complete theirs in two seasons (e.g., sugar beet and onion). Perennial crops, on the other hand, reproduce and repeat their life cycles indefinitely and do not die after flowering in one season (e.g. grapes and fruit-bearing trees) (Tamayo, 2010)

from 1 (for cattle and carabao) to 26 for livestock and at least 1,000 heads for poultry (See Table 3).

Table 3

PCIC Maximum Cover Ceiling per Livestock, by Purpose

Insurance cover	Animal	Purpose	No. of heads per grower	Remarks
Non-commercial	Cattle and Carabao	Draft, Dairy, Breeder, Fattener	2-10	Maximum total sum insured of less than P110,000 or at least P15,000 per head
	Horse	Draft/Working	2-10	
	Goat and Sheep	Breeder/Fattener	10-25	
	Swine	Breeder	2-10	
		Fattener	7-20	
Commercial	Cattle and Carabao	Draft, Dairy, Breeder, Fattener	11 (or at least 1 animal with at least P15,001 cover)	Minimum total sum insured of P110,000
	Horse	Draft/Working	11	
	Goat and Sheep	Breeder/Fattener	26	
	Swine	Breeder	11	
		Fattener	21	
	Chicken	Broiler	5,000	
		Pullet/Layers	1,000	
	Duck	Pullet/Layers	1,000	

Note. Philippine Crop Insurance Corporation. (2019). *Guidelines on the livestock mortality insurance program.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2020/01/01-Livestock-april-12-2019-Final-Printing-APRIL-15-2019.pdf

Meanwhile, livestock and poultry are insured subject to insurable age requirements per type of animal with premium rates and amount covers determined based on the age when they were accepted for insurance. For animals beyond the prescribed insurable age, additional premium will be charged and may be renewed annually from 4 to 17 years depending on the type of animal (see Table 4). The insurance covers mortality due to accidents and/or diseases and/or other covered risks.

Table 4

Insurable Age of Livestock and Poultry to PCIC

Animal	Purpose	Insurable age		Remarks
		From	To	
Cattle and carabao	Draft, Dairy Breeder, Fattener	7 months	5 years	Animals that are 5-17 years old can be accepted for coverage subject to additional premium up to age 17
Horse	Draft/Working	1 year	5 years	Animals that are 5-17 years old can be accepted for coverage subject to additional premium up to age 17
Goat and Sheep	Breeder	4 months	1 year	Renewable annually up to 7 years old
	Fattener	4 months	1 year	Until sold whichever comes first
Swine	Breeder	6 months	2 years	Renewable annually up to 4 years old
	Fattener	45 days	6 months	Until sold whichever comes first
Chicken	Broiler	1 day	8 weeks	N/A
	Pullet/Layers	1 day	75 weeks	Or insurable age could be agreed upon
Duck	Pullet/Layers	12 weeks	65 weeks	Or insurable age could be agreed upon

Note. Philippine Crop Insurance Corporation. (2019). *Guidelines on the livestock mortality insurance program.* Retrieved May 20, 2023 https://pcic.gov.ph/wp-content/uploads/2020/01/01-Livestock-april-12-2019-Final-Printing-APRIL-15-2019.pdf

d. Non-crop assets

As for the non-crop agricultural assets protected by the PCIC insurance program, properties covered include buildings, machineries, equipment, transportation facilities, and other related infrastructures used directly or indirectly for production and processing, marketing, storage, and distribution of agricultural products and services.

The period of insurance will be at most one year from the date of effectivity or as specified in the policy contract and the corresponding premium payments covering for damages due to fire and lightning on warehouses, poultry houses, pig pens, stables, and other similar and related structures are covered. Direct physical loss or damage due to external causes to tractors, threshers, trailers, shallow tube wells, and other related farm machineries are also covered. The PCIC insurance also protects commercial vehicle such as trucks and pick-ups lost or damaged due to accident collision or overturning because of mechanical breakdown or regular depreciation, fire, explosion, self-ignition, lightning, burglary, or while in transit.

e. Fisheries

For fisheries insurance, the cost of inputs, value of labor of fish farmer/fisherfolk/grower and of his household, and hired workers as indicated in the Fisheries Farm Plan Budget shall be included in the coverage. Meanwhile, the period of coverage for the fisheries insurance program will be from stocking up to harvest as indicated in the Fisheries Farm Plan Budget. The beginning of such coverage is from the date of policy issuance or actual date of seeding/stocking.

Fisheries insurance program has a limited and extended coverage. Limited coverage includes loss due to natural disasters while extended coverage includes loss due to unexpected events and force majeure.

f. Credit and life term insurance (CLTI)

The CLTI offers different amounts of coverage depending on the type of insurance. For Accident and Dismemberment Security Scheme (ADS[2]), individual and group plans of agricultural producers and/or their family members and/or farm workers who are 15 to 80 years old are insurable with at least P15,000 to at most P100,000 with annual premium rates at 0.1% to 0.5% of the amount coverage. For Agricultural Producers Protection Plan (AP[3]), principal coverage of P15,000 to P50,000 is offered to any agricultural producer, farmer, or fisherfolk and/or their family member or hired worker who is 15 to 80 years old with premium rate of 0.75% of the principal. Lastly, for Loan

Repayment Protection Plan (LRP[2]), insurance amount will be equivalent to the amount of approved loan and its interest.

The ADS[2] cover includes deaths and dismemberment of either both hands or both feet or both eyes, either hand or foot and sight of one eye, one hand and one foot, either hand or foot, and sight of one eye. The AP[3], on the other hand, covers for agricultural producers' death due to accidents, natural causes, and murder or assault, while the LRP[2] covers death or total and permanent disability arising from accident, natural causes, and murder or assault.

g. Registry system for basic sectors in agriculture - agricultural insurance program (RSBSA)

The RSBSA is a special insurance program implemented by the PCIC, which is funded by the annual general appropriations. It is a repository of nationwide information on farmers, fisherfolks, and farm workers established through a number of surveys conducted in 2012 by the Department of Budget and Management. The list has been extended to include that of the DA, DAR, National Irrigation Administration, and the Bureau of Fisheries and Aquatic Resources. The RSBSA currently lists 13.52 million farmers.

The most recently published guidelines[7] for the implementation of the said program, pursuant to RA 11639, or the "General Appropriations Act for 2022", provides that P4.5 billion in Government Premium Subsidy to the PCIC for full premium of subsistence farmers and fisherfolks to cover agricultural crop and non-crop assets. The RSBSA Program budget shall provide for listed farmers the same opportunities provided by the seven insurance lines of the PCIC under its own conditions.

For rice and corn crops, the allowable amount of cover is P20,000 per hectare subject to a maximum of three hectares. Meanwhile, the maximum cover for banana is P100,000 per hectare and P50,000 for other HVCs. The maximum livestock cover for cattle, carabao, horse, swine, goat, and sheep vary from P6,000 to P20,000 per animal subject to maximum volume conditions set by the Implementing Guidelines. Poultry growers are eligible for a maximum of P200,000 cover for varying maximum volume depending on the particular purpose of the production, that is, whether as broiler or layer. Fisheries are covered based on the area covered of fish cages or pen (See Table 5).

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[7] Entitled, "Guidelines for the Implementation of the "Agricultural Insurance for Farmers and Fisherfolks Under the RSBSA" as Provided for under Republic Act 113639, or the General Appropriations Act, FY 2022.", (January 1, 2022).

Table 5

Maximum Amount and Volume of Insurance Coverage Under the RSBSA

Particulars	Maximum cover	Maximum volume
Cattle, carabao, horse	P20,000 (per head)	10 heads
Swine (Fattener)	P10,000 (per head)	20 heads
Swine (Breeder)	P14,500 (per head)	10 heads
Goat and Sheep	P6,000 (per head)	25 heads
Poultry (Broiler)	P200,000 (per farmer)	2,000 heads
Poultry (Pullets/Layers)	P200,000 (per farmer)	1,000 heads
Poultry (Quail Layers)	P200,000 (per farmer)	5,000 heads
Fisheries (in land fish pond)	N/A	2,500 square meters
Cultured under fish cage	P300,000 (per fish grower)	400 cubic meters
Cultured under fish pen	N/A	1,000 square meters
Seaweed farm	N/A	1,000 square meters

Note. Summarized from the unnumbered implementing rules and regulations, Entitled, "*Guidelines for the implementation of the "Agricultural insurance for farmers and fisherfolks under the RSBSA" as provided for under Republic Act 113639, or the General Appropriations Act, FY 2022.*", January 1, 2022.

Meanwhile, capital assets for fisheries shall be within the maximum allowable amount of P300,000 per fisherman/fish grower covering at most three units of fishing boat or equipment used within waters under the jurisdiction of the municipality at a maximum gross tonnage of three tons. On the other hand, agricultural equipment and machines are insurable with up to P300,000 for at most three individually owned properties (Philippine Crop Insurance Commission, 2022).

h. Innovative crop insurance products

Aside from the traditional delivery of insurance to agricultural producers, the PCIC also developed innovative crop insurance products with the primary purpose of expediting the process of claims filing, damage assessment, and indemnity payment, which is primarily the inefficient segments of insurance delivery. These innovative crop insurance products include Weather Index Based Insurance (WIBI), Area Based Yield Index (ARBY), Yield Insurance Product for HVCs under the Hybrid Scheme, and the Yield Insurance Coverage under Traditional Indemnity Based.

In particular, the WIBI is a system of insurance which gives payout on the basis of the weather index used accounting for location specific rainfall-crop yield and loss indices and threshold levels. This means that a farmer is covered against drought and excessive flooding in scientifically set thresholds depending on the stage of crop growth. The PCIC, in collaboration with PAGASA, monitors the daily rainfall data providing immediate payout once the threshold is breached. The ARBY, on the other hand, provides payout automatically when the farmers' actual yield falls below the average yield of a specific area. Meanwhile, under the hybrid scheme, the PCIC provides insurance cover for the difference between the actual yield and the average yield of the area due to natural calamities or pests and diseases. The payout will be computed using the amount of the farmgate price of the HVC in the farm location from the commencement of the policy. Lastly, the yield insurance coverage under traditional indemnity-based scheme was also developed by the PCIC for mango in 2011 and is now being tested for other HVCs such as coconut, cacao, and coffee.

Although these innovative insurance products are promising, they are challenged by the products' extensive dependence on technical expertise for each type of crop or livestock or fisheries all the while benchmark data relevant to insurance product development are still very limited. Advanced equipment and technology, especially on weather tracking and mapping, are still needed for better accuracy and sustainability of implementation beyond the pilot areas where these programs were tested (Cajucom, 2021).

2. DA

The PCIC also provides subsidies on the insurance premium of the Sikat-Saka Program under the DA in partnership with the LBP. The direct beneficiaries of the said program are the subsistence rice farmers. In this program, the amount of cover allowable is equivalent to the loan value granted by the LBP, subject to farm eligibility criteria where the standard premium rates for respective provinces are used. The Sikat-Saka program is available to 45 major rice producing provinces of the country and may be availed individually or in groups through the National Irrigation Administration – Irrigators Association focal person (Philippine Crop Insurance Corporation, 2015).

Aside from the Sikat-Saka Program, the DA also gives a total insurance premium subsidy for farm/fisheries investments and assets with a loan repayment plan guaranteeing for loans in the unfortunate event of death or disability of subsistent farmers and fisherfolks who are participant of Agricultural Credit Policy Council Program for Unified Lending in Agriculture. The same is provided for subsistence farmers and fisherfolk in areas under state of calamity for participants of the

Survival and Recovery Program. For farmers participating in High Yield Technology Adoption and hybrid production, total insurance premium subsidy is also provided to further encourage the participation of farmers in pursuit of the program objectives The DA also provides 100% insurance premium subsidy under the Weather Adverse Rice Areas Crop Insurance Programs for DA-verified subsistent rice growers with farms in a suitable area for rice production.

There are also targeted insurance programs like the DA-Masaganang Ani 200 for growers of palm oil and corn and rice farmers in selected municipalities in North Cotabato and Rehabilitation Program for farmers and fisherfolk from who were extremely affected by the typhoon Yolanda (Haiyan) (Cajucom, Agricultural Insurance in the Philippines: Innovative Product Development, 2021).

3. DAR

The DAR also has an insurance program in partnership with the PCIC. In 2013, the pilot implementation of the Agricultural Insurance Program for Agrarian Reform Beneficiaries (AIP-ARBs) commenced with at least 500,000 consistently enrolled ARBs under the Joint Memorandum Circular No. 4[8] There is also an AIP for Subsistence Farmers and Fisherfolk and ARBs that are not listed under the RSBSA.

4. Private Sector Insurance

Aside from government sanctioned agricultural insurances, private companies have also started to offer microinsurance products to farmers, fisherfolks, and livestock and poultry growers. In 2016, the Philippine government in partnership with the Asian Development Bank has begun the first private-public partnership to provide crop insurance to selected HVCs such as coconut, coffee, cacao, banana, sugarcane, and pineapple. This will be through a co-insurance scheme between the CARD Pioneer Microinsurance, Inc. and the PCIC with a risk sharing ratio of 70:30 (Asian Development Bank, 2022).

Meanwhile, the Microensure started to provide microinsurance products and services in 2007 to at least 50 provinces. Some of which include life and funeral insurance, health insurance, personal accident insurance, micro-housing, calamity insurance, and weather index-based insurance (Cajucom, 2017).

[8] Entitled, "Implementing Rules and Regulations (IRR) on the Agrarian Reform Beneficiaries-Agricultural Insurance Program (ARB-AIP) for FY 2021 Implementation", 2021

D. Cross Country Comparison

Among members of the Association of Southeast Asian Nations (ASEAN), the Philippines is the oldest institutional agricultural insurance provider under the PCIC. Thailand and Indonesia have also developed a national subsidized agricultural insurance providing comprehensive coverage among small hold agricultural producers within the past decade. Meanwhile, Cambodia, Myanmar, and Vietnam have already started small pilot testing of their own version of the initiative. However, known agricultural economies, Malaysia and Lao PDR, are yet to develop a program of their own. Brunei and Singapore do not provide agricultural insurance at all. Lastly, it was found that the most sustainable way to provide agricultural insurance is through public-private partnership (PPP) (Deutsche Gesellschaft fürn Iternationale Zusammenarbeit (GIZ), 2022) (See Table 6).

Table 6

Agricultural Insurance Provision in ASEAN as of 2021

Country	Agri. insurance	Year started[1]	Status	Crop insurance[2,3]	Livestock insurance	Fisheries/ aquaculture insurance	Main market: Public/ private/ PPP	Gov't support for premium subsidies
Philippines	Yes	1976	Scaling -up	Commercial (MPCI; NPCI); Pilot (AYII; WII)	Commercial (Indemnity)	Commercial (Indemnity)	Public	Yes
Brunei	No	-	-	-	-	-	-	-
Cambodia	Yes	2015	Pilot	Pilot (WII)	X	X	Private	No
Indonesia	Yes	2016	Scaling -up	Commercial (NPCI); Pilot (WII)	Commercial (Indemnity)	Commercial (Indemnity)	Public	Yes
Lao PDR	No	-	-	-	-	-	-	-
Malaysia	No	-	-	-	-	-	-	-
Myanmar	Yes	2018	Pilot	Pilot (MPCI)	X	X	Private	No
Singapore	No	-	-	-	-	-	-	-
Thailand	Yes	1978 (2011)	Scaling -up	Commercial (NPCI) Pilot (WII)	Pilot (Indemnity)	Pilot (Indemnity)	PPP	Yes
Vietnam	Yes	1982 (2011)	Pilot	Pilot (AYII)	Pilot (Indemnity)	Pilot (Indemnity)	PPP	Yes

Notes. Deutsche Gesellschaft fürn Iternationale Zusammenarbeit (GIZ). (2022). *ASEAN guideline on agricultural insurance implementation.* Retrieved from https://asean.org/: https://asean.org/wp-content/uploads/2022/11/9.-ASEAN-Guideline-Agricultural-Insurance-Implementation-Adopted.pdf

[1] Years in parenthesis are when governments introduced national subsidized agricultural insurance
[2] Index-based crop insurance including: weather index insurance (WII) and area yield index insurance (AYII)
[3] Traditional indemnity-based crop insurance: multiple peril crop insurance (MPCI), named peril crop insurance (NPCI)

III. COMMENTS AND OBSERVATIONS

A. Challenges in the agricultural insurance industry in the Philippines

The contribution of the agriculture and fisheries sector to the economy is undeniably significant. From 2017 to 2021, the PSA (2022) reports that the value of agricultural production was at an average of P1.79 trillion per year but PCIC records showed only an average of P91.02 billion worth of insurance cover annually. Hence, only 5% of the total value of agricultural production was insured even when the industry has always been susceptible to typhoons, drought, pests, and diseases. While the value of agricultural production has barely changed during the period under review, the amount of covered value of production increased by 88% from P58.46 billion to P110.10 billion. Even so, the proportion insured was still very low and has a room for growth (See Table 7).

Table 7

Value of Agricultural Production vs Insured Amount, 2017-2021

Year	Value of agricultural production (in million pesos)	Amount of cover (in million pesos)	% Insured
2017	1,796,333.00	58,464.92	3.25
2018	1,806,368.00	79,828.43	4.42
2019	1,810,914.00	112,110.08	6.19
2020	1,788,762.00	94,591.59	5.29
2021	1,758,746.00	110,095.79	6.26
Average	1,792,224.60	91,018.16	5.08
% Growth	(2.09)	88.31	92.34

Notes. Philippine Crop Insurance Corporation. (2017). *Annual report 2017.* https://pcic.gov.ph/wp content/uploads/2019/02/AR-2017.pdf

Philippine Crop Insurance Corporation. (2018). *Annual report 2018.* https://pcic.gov.ph/wp-content/uploads/2019/08/FINAL-annual-repot-2018.pdf

Philippine Crop Insurance Corporation. (2019). *Annual report 2019.* https://pcic.gov.ph/wp-content/uploads/2020/12/PCIC-2019-ANNUAL-REPORT.pdf

Philippine Crop Insurance Corporation. (2020). *Annual report 2020.* https://pcic.gov.ph/wp-content/uploads/2021/10/annual-2020-for-website-final.pdf

Philippine Crop Insurance Corporation. (2021). *Annual report 2021* https://pcic.gov.ph/wp-content/uploads/2023/02/ANNUAL-REPORT-2021.pdf

Philippine Statistics Authority. (2022). *2022 Selected statistics on agriculture and fisheries.* https://psa.gov.ph/sites/default/files/%28ons-cleared%29_SSAF%202022%20as%20of%2030082022_ONS-signed.pdf

The importance of agricultural insurance could not be overemphasized as seen in the efforts of the Philippine government to provide coverage especially to subsistent farmers and fisherfolk. This is evident in the increase in the number of agricultural producers availing the varied lines of insurance offered and administered by the PCIC. From 2017 to 2022, the number of insured grew by 98% from 1.7 million to 3.4 million while those who were able to claim grew by 205% from 241,069 to 518,046. However, this is a reflection of the small proportion of insured and indemnified agricultural producers as compared to the 13.52 million as indicated in the RSBSA. For the period under review, the average number of insured farmers was approximately 2.7 million, which was only 20% of the RSBSA list. The number of claimants, on the other hand, was just approximately 4% of the same (See Table 8).

Table 8

Proportion of Insured Farmers and Claimants to the Total in the RSBSA List 2017-2021

Year	Number of insured	% of RSBSA list	Number of claimants	% of RSBSA list
2017	1,697,577	12.56	241,096	1.78
2018	2,267,493	16.77	433,188	3.20
2019	3,146,866	23.28	569,344	4.21
2020	3,090,251	22.86	611,998	4.53
2021	3,357,540	24.83	734,605	5.43
Average	2,711,945	20.06	518,046	3.83
% Growth	97.78	97.78	204.69	204.69

Notes. Philippine Crop Insurance Corporation. (2017). *Annual report 2017.* Retrieved from https://pcic.gov.ph/wp content/uploads/2019/02/AR-2017.pdf
Philippine Crop Insurance Corporation. (2018). *Annual report 2018.* https://pcic.gov.ph/wp-content/uploads/2019/08/FINAL-annual-repot-2018.pdf
Philippine Crop Insurance Corporation. (2019). *Annual report 2019.* https://pcic.gov.ph/wp-content/uploads/2020/12/PCIC-2019-ANNUAL-REPORT.pdf
Philippine Crop Insurance Corporation. (2020). *Annual report 2020.* https://pcic.gov.ph/wp-content/uploads/2021/10/annual-2020-for-website-final.pdf
Philippine Crop Insurance Corporation. (2021). *Annual report 2021.* https://pcic.gov.ph/wp-content/uploads/2023/02/ANNUAL-REPORT-2021.pdf

Aside from deficient funds as the overarching reason for lack of coverage, the inherent inefficiencies in insurance implementation also lowers participation among farmers even if the government already provides full premium subsidy. Rola and Querijero (2017) reports that there is a large gap between the ideal and actual number of days before the response of the team of adjusters, number of days before receipt of indemnity, and amount of damage estimate (see Table 9). In particular, the farmers' unmet expectation on the value of indemnification corroborates the PCIC guidelines on the limits of volume and value of insurance coverage. Moreover, their research found that because agricultural insurance in the country has become a risk reduction mechanism for credit providers, farmer participation on the PCIC insurance is mainly due to its being a loan application requirement.

Table 9

Gaps Identified on the Efficiency of the Rice Crop Insurance Program in Laguna

Task	Perceived competence	Ideal	Gap
Response of the team of adjusters (in days)	36	5	31
Indemnity received (in days)	103	60	43
Estimated damage gap (in Pesos)		20,727.27	

Note. Rola, A., & Querijero, N. (2017). Efficiency and effectiveness of the Philippine Crop Insurance Corporation's rice crop insurance program: the case of Laguna Province, Philippines. *Journal of Public Affairs and Development, 4*, 29-49. Retrieved from https://ovcre.uplb.edu.ph/journals-uplb/index.php/JPAD/article/view/705/664

The inferences discussed are also captured by the study of the World Bank, which reports that the PCIC insurances do not give sufficient value for money to taxpayers and enough protection to farmers. The institution itself is also highly vulnerable to catastrophe losses which are not reinsured. In response, the PCIC, under the supervision of the Insurance Commission, is required to submit an annual examination of its financial affairs, conditions, and methods of business to the Department of Finance pursuant to Department Order No. 038-2022.

B. Taxation of Agricultural Insurance and Proposed Policy Reforms

In line with the provision of Section 16 of PD 1467, the PCIC shall be exempt to the extent allowed by national policy from all national, provincial, municipal, and city taxes and assessments now enforced, Provided, that said exemption shall apply only to such taxes and assessments for which the Corporation itself would otherwise be liable and shall not apply to taxes and assessments payable by persons or other entities doing business with the Corporation. The said tax exemptions were repealed by Executive Order (EO) No. 93[9], s. 1986 to institutionalize tax subsidy as implemented by the Fiscal Incentives Review Board (FIRB).

In support of the plight of farmers and the mandate of the PCIC, there has been a proposal that the latter be granted with a Tax Expenditure Subsidy (TES) to be administered by the FIRB subject to the provisions of Title XIII of the National Internal Revenue Code (NIRC) of 1997, as amended, EO 93, as amended, and the Annual General Appropriations Act (GAA) under House Bill (HB) No. 10276[10]. The use of the

[9] Entitled, "Withdrawing All Tax and Duty Incentives, Subject to Certain Exceptions, Expanding the Powers of the Fiscal Incentives Review Board and for Other Purposes", (December 17, 1986).

[10] Entitled, "An Act Strengthening the Philippine Crop Insurance Corporation, Repealing for the Purpose Presidential Decree No. 1947, as Amended, Entitled ' Creating the Philippine Crop Insurance Corporation Prescribing its Powers and Activities, Providing for Its Capitalization and for the Required Government Premium Subsidy and for Other Purposes'". Eighteenth Congress, Third Regular Session, 2021.

TES, however, is not automatic and entitlement must be requested from the FIRB. Such application is subject to thorough evaluation to avoid leakage, abuse, and/or fiscal inefficiencies. The TES entitlement, if approved, may also be canceled, suspended, or withdrawn by the FIRB.

The proposal no longer provides for its tax exemptions but instead replaced with a tax subsidy provision. The general objective of the bill of strengthening the PCIC and extending government's financial support through tax subsidy, is aligned with the thrust of Package 4 of the Comprehensive Tax Reform Program of the government. Package 4, among others, aims to remove various tax exemptions and preferential tax treatments under special laws to simplify the overly complicated tax structure of passive income and financial intermediaries to achieve the goal of having lower tax rates but larger tax bases. Although the tax exemptions of the PCIC were already withdrawn in 1986 and since then has been a recipient of tax subsidy through the FIRB, its tax exemptions under PD 1467 insofar as interest income, capital gains, and DST are concerned, is one of the laws to be repealed under Package 4, though for housekeeping purposes only. Thus, the proposed PCIC bill complements the position of Package 4 for the government to provide direct subsidy, rather than outright tax exemption, to continue supporting PCIC's endeavors.

The grant of non-tax incentives such as subsidies is preferred over outright tax exemption to government entities including government-owned and controlled corporations such as the PCIC, because it is more transparent and can be evaluated and monitored properly to enable the government to determine their financial and related repercussions.

In the 18th Congress, three bills were filed to strengthen the PCIC namely, Senate Bill (SB) Nos. 883[11], SB 1915[12], and HB No. 10276[13]. Both SBs proposed the tax exemption of the PCIC from all national, provincial, municipal, and city taxes and assessments, while the HB pushed for its entitlement of the TES.

[11] Entitled, "An Act Strengthening the Philippine Crop Insurance Corporation, Expanding its Powers and Activities, Increasing its Capitalization and Amending for this Purpose Presidential Decree No. 1467 Entitled 'Creating the 'Philippine Crop Insurance Corporation' Prescribing Its Activities, Providing for its Capitalization and for Other Purposes,' and Other Laws". Eighteenth Congress, First Regular Session, 2019.

[12] Entitled, "An Act Strengthening the Philippine Crop Insurance Corporation, Repealing for the Purpose Presidential Decree No. 1947, as Amended, Entitled ' Creating the Philippine Crop Insurance Corporation Prescribing its Powers and Activities, Providing for Its Capitalization and for the Required Government Premium Subsidy and for Other Purposes'". Eighteenth Congress, Second Regular Session, 2020.

[13] Entitled, "An Act Strengthening the Philippine Crop Insurance Corporation, Repealing for the Purpose Presidential Decree No. 1947, as Amended, Entitled ' Creating the Philippine Crop Insurance Corporation Prescribing its Powers and Activities, Providing for Its Capitalization and for the Required Government Premium Subsidy and for Other Purposes'". Eighteenth Congress, Third Regular Session, 2021.

IV. CONCLUSION

The government has long been extending support and assistance to the farmers because of their crucial role of carrying the burden of feeding the entire nation. A comprehensive agricultural insurance program in the Philippines has been implemented for almost five decades already and a number of amendments have extended its coverage to different major crops, livestock, poultry, fisheries, and other assets.

Although it is considered the oldest institutional agricultural insurance provider in the ASEAN region, the Philippines still faces challenges. While the insured amount and adoption among farmers have increased over the years, the rampant increases in occurrences of natural disasters due to climate change calls for stronger management, higher insurance coverage, more efficient delivery of services, and wider adaptation on agricultural insurance among farmers. Moreover, the need for agricultural insurance in the country is, more often than not, primarily meant to facilitate credit access, especially in formal lending institutions. Thus, there is a need to promote financial literacy and build trust in financial services to make agricultural insurance products more attractive to farmers as well as address the low penetration of agricultural insurance in the country.

References

Asian Development Bank. (2022). *Testing public–private partnership in crop insurance to boost Filipino farmers' resilience.* Retrieved from Asian Development Bank: https://www.adb.org/news/features/testing-public-private-partnership-crop-insurance-boost-filipino-farmers-resilience

Cajucom, N. R. (2017). *Agricultural insurance in the Philippines: enhancing resilience to climate change.* Retrieved from Southeast Asian Regional Center for Graduate Study and Research in Agriculture: https://www.searca.org/pubs/discussion-papers?pid=382

Cajucom, N. R. (2021). *Agricultural insurance in the Philippines: innovative product development and scale-up amid climate risks and other hazards.* Retrieved from https://transactions.nast.ph/?p=2395: https://doi.org/10.57043/transnastphl.2021.2395

Chatterjee, A., & Oza, A. (2017, April). *Agriculture insurance.* ADB Briefs No. 77. Retrieved from Asian Development Bank: https://www.adb.org/sites/default/files/publication/239181/adb-brief-agriculture-insurance-rt-4th_1.pdf

Climate Change Knowledge Portal. (2021). *Philippines.* Retrieved May 21, 2023 from https://climateknowledgeportal.worldbank.org/country/philippines/vulnerability

Decena, F. C. (2016). *Agricultural insurance in the Philippines*. Retrieved from Food and Fertilizer Technology Center for the Asian and Pacific Region: https://ap.fftc.org.tw/article/1056

Department of Finance. (2022). *Dominguez orders PCIC to only implement demand-driven foreign-supported projects.* Retrieved June 5, 2023, from https://www.dof.gov.ph/dominguez-orders-pcic-to-only-implement-demand-driven-foreign-supported-projects/

Department of Finance. (2022). *Dominguez places PCIC under the supervision of Insurance Commission*. Retrieved April 28, 2023, from https://www.dof.gov.ph/dominguez-places-pcic-under-the-supervision-of-insurance-commission/

Deutsche Gesellschaft fürn Iternationale Zusammenarbeit (GIZ). (2022). *ASEAN guideline on agricultural insurance implementation.* Retrieved from https://asean.org/: https://asean.org/wp-content/uploads/2022/11/9.-ASEAN-Guideline-Agricultural-Insurance-Implementation-Adopted.pdf

Philippine Crop Insurance Corporation. (2015). *Sikat saka.* Retrieved May 21, 2023 from https://pcic.gov.ph//wp-content/uploads/2015/08/SIKAT-SAKA8.7.2015.pdf

Philippine Crop Insurance Corporation. (2017). *Annual report 2017.* Retrieved May 21, 2023 from https://pcic.gov.ph/wp-content/uploads/2019/02/AR-2017.pdf

Philippine Crop Insurance Corporation. (2018). *Annual report 2018.* Retrieved May 21, 2023 from https://pcic.gov.ph/wp-content/uploads/2019/08/FINAL -annual -repot-2018.pdf

Philippine Crop Insurance Corporation. (2018). *General information on the high value crop insurance program.* Retrieved May 21, 2023 from https://pcic.gov.ph/wp-content/uploads/2019/01/HVCC-Final.pdf

Philippine Crop Insurance Corporation. (2019). *Annual report 2019.* Retrieved May 20, 2023 https://pcic.gov.ph/wp-content/uploads/2020/12/PCIC-2019-ANNUAL-REPORT.pdf

Philippine Crop Insurance Corporation. (2019). *Guidelines on the livestock mortality insurance program.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2020/01/01-Livestock-april-12-2019-Final-Printing-APRIL-15-2019.pdf

Philippine Crop Insurance Corporation. (2020). *Annual report 2020.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2021/10/annual-2020-for-website-final.pdf

Philippine Crop Insurance Corporation. (2021). *Annual report 2021.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2023/02/ANNUAL-REPORT-2021.pdf

Philippine Crop Insurance Corporation. (2022). *General information on the corn crop insurance program.* Retrieved May 20, 2023 https://pcic.gov.ph/wp-content/uploads/2023/05/HO-CORN2022-JULY-v13.pdf

Philippine Crop Insurance Corporation. (2022). *General information on the rice crop insurance program.* Retrieved May 20, 2023 from https://pcic.gov.ph/wp-content/uploads/2023/05/HO-RICE-2022-JULY-V13.pdf

Philippine Crop Insurance Corporation. (n.d.). *Insurance products*. Retrieved May 20, 2023 from https://pcic.gov.ph/insurance-products-2/

Philippine Statistics Authority. (2022). *2022 Selected statistics on agriculture and fisheries.* Retrieved May 20, 2023 from https://psa.gov.ph/sites/default/files/%28ons-cleared%29_SSAF%202022%20as%20of%2030082022_ONS-signed.pdf

Reyes, C. M. (2019). *Towards a more inclusive agricultural insurance program.* Retrieved from Philippine Institute for Development Studies: https://pidswebs.pids.gov.ph/CDN/EVENTS/pids_agri_insurance_ppt_2july2020_final.pdf

Rola, A., & Querijero, N. (2017). *Efficiency and effectiveness of the Philippine Crop Insurance Corporation's rice crop insurance program: the case of Laguna Province, Philippines*. Journal of Public Affairs and Development, Volume 4, 29-49. Retrieved from https://ovcre.uplb.edu.ph/journals-uplb/index.php/JPAD/article/view/705/664

Tamayo, N. V. (2010). *2010 Agricultural licensure exam review-crop science classification of crops.* Retrieved from Studocu: https://www.studocu.com/ph/document/southern-luzon-state-university/agriculture/classification-of-crops/31017287

Supreme Court Decisions on Documentary Stamp Tax Issues and Concerns*

I. INTRODUCTION

The Documentary Stamp Tax (DST) is considered one of the stable sources of revenue for the government since, by nature, it is an excise tax 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. Thus, it is imposed on the transaction rather than on the document.

Its importance is indisputable, considering that an instrument, document, or paper that has been signed, issued, accepted, or transferred without being duly stamped when so required by law shall not be recorded, nor shall it or any copy thereof or any record of transfer of the same be admitted or used in evidence in any court until the requisite stamp or stamps are affixed thereto and canceled.

At present, there are 25 major categories of documents/instruments/transactions subject to the DST under Sections 174 to 198 of the National Internal Revenue Code (NIRC) of 1997, as amended, which complicates the DST structure. There are also varying DST rates for similar documents/instruments/transactions, which make it inequitable and susceptible to tax arbitrage. On the other hand, a long list of documents/instruments/transactions are exempt under Section 199 of the same Code.

Due to its complexity, the government deems it necessary to rationalize the DST structure through Package 4 of the Comprehensive Tax Reform Program (CTRP). Given this, the paper discusses various issues elevated to and decided upon by the Supreme Court (SC) pertaining to the DST to help the general public become aware of the intricacies of the said tax. The paper also discusses the DST reforms being proposed under Package 4 to serve as input to fiscal policymakers.

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II. LEGISLATIVE BACKGROUND OF THE IMPOSITION OF THE DST

The initial codification of the DST was done upon the effectivity of Act No. 1189[1] on August 1, 1904. The DST, then referred to as Stamp Tax (ST), was imposed on 18 major categories of documents/instruments/transactions. In 1939, Commonwealth Act No. 466[2] repealed the old law and renamed the ST to what is now known as the DST. The major categories of documents/instruments/transactions subject to the DST were increased to 24, more or less similar to the current DST structure.

Through the years, various laws further amended the DST structure, which paved the way to higher DST rates, expanded coverage, and increased the number of exemptions. The most recent amendment to the DST structure was under Republic Act (RA) No. 10963[3], otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN)" law, wherein the majority of the rates were doubled to generate more revenues for the government. Table 1 summarizes the present DST structure.

Table 1

DST Structure

Section	Documents/Instruments/Transactions	Tax base	Ad valorem rate
174	Original issue of shares of stock	Par value	1.00%
	In case of stock issued without par value	Consideration	1.00%
175	Sales, agreements to sell, memoranda of sales, deliveries, or transfer of shares or certificate stock	Par value	0.75%
	In case of stock issued without par value	DST paid on the original issue of shares of stock	50.00%
	Traded through local stock exchange		Exempt[1/]
176	Bonds, debentures, certificates of stocks, or indebtedness issued in foreign countries	Face value	Tax as required by law

[1] Entitled, "An Act to Provide for the Support of the Insular Provincial and Municipal Governments, bInternal Taxation", (August 1, 1904).

[2] Entitled," An Act to Revise, Amend and Codify the Internal Revenue Laws of the Philippines", (June 15, 1939).

[3] Entitled, "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", (December 19, 2017).

Section	Documents/Instruments/Transactions	Tax base	Ad valorem rate
177	Certificates of profits or interest in property or accumulation	Face value	0.50%
178	Bank checks, drafts, certificates of deposit not bearing interest, and other instruments	Per instrument	P3.00
179	Debt instruments	Issue price	0.75%
180	Bills of exchange or draft	Face value	0.30%
181	Acceptance of bills of exchange and others	Face value	0.30%
182	Foreign bills of exchange and letters of credit	Face value	0.30%
183	Life insurance policies	Amount of insurance	P20.00-P200.00
184	Policies of insurance upon property	Premium	12.50%
185	Fidelity bonds and other insurance policies	Premium	12.50%
186	Policies of annuities and pre-need plans		
	Annuities	Premium	0.50%
	Pre-need plans	Premium	0.20%
187	Indemnity bonds	Premium	7.50%
188	Certificates	Per certificate	P30.00
189	Warehouse receipts	Per receipt	P30.00
190	Jai-alai, horse race tickets, lotto, or other authorized number games	Ticket price	20.00%
191	Bills of lading or receipts	Value	0.20%
192	Proxies	Per instrument	P30.00
193	Powers of attorney	Per instrument	P10.00
194	Leases and other hiring agreements	Value	0.30%/0.20%
195	Mortgages, pledges, and deeds of trust	Amount secured	0.80%/0.40%
196	Deeds of sale and conveyances of real property	Consideration or fair market value	1.50%
197	Charter parties and similar instruments	Gross tonnage	P1,000-P3,000
198	Assignments and renewals of certain instruments	Same base as the original instrument	Same as original

Note. [1/]Provided under Section 199(e) of the NIRC of 1997, as amended.

On the other hand, subsections (a) to (n) of Section 199 of the NIRC of 1997, as amended, provide for the documents/instruments/transactions that are exempt from the DST to wit:

a. Policies of insurance or annuities made or granted by a fraternal or beneficiary society, order, association or cooperative company, operated on the lodge system or local cooperation plan and organized and conducted solely by the members thereof for the exclusive benefit of each member and not for profit;

b. Certificates of oaths administered by any government official in his official capacity or acknowledgement by any government official in performance of his official duty; Written appearance in any court by any government official in his official capacity; Certificates of the administration of oaths to any person as to the authenticity of any paper required to be filed in court by any person or party thereto, whether the proceedings be civil or criminal; Papers and documents filed in courts by or for the national, provincial, city or municipal governments; Affidavits of poor persons for the purpose of proving poverty; Statements and other compulsory information required of persons or corporations by the rules and regulations of the national, provincial, city or municipal governments exclusively for statistical purposes and which are wholly for the use of the bureau or office in which they are filed, and not at the instance or for the use or benefit of the person filing them; Certified copies and other certificates placed upon documents, instruments and papers for the national, provincial, city or municipal governments, made at the instance and for the sole use of some other branch of the national, provincial, city or municipal governments; Certificates of the assessed value of lands, not exceeding P200 in value assessed, 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: Provided, however, That any borrowing or lending of securities agreement as contemplated hereof shall be duly covered by a master securities borrowing and lending agreement acceptable to the appropriate regulatory authority, and which agreement is duly registered and approved by the Bureau of Internal Revenue (BIR);

d. Loan agreements or promissory notes, the aggregate of which does not exceed P250,000, 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: Provided, however, That the amount to be set by the Secretary of Finance shall be in accordance with a relevant price index but not to exceed 10% of the current amount and shall remain in force at least for three years;

e. Sale, barter, or exchange of shares of stock listed and traded through the local stock exchange (RA 9648);

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 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 NIRC of 1997, as amended;

n. Interbank call loans with a maturity of not more than seven days to cover the deficiency in reserves against deposit liabilities, including those between or among banks and quasi-banks; and

o. Remittance of all OFWs, upon showing of the same proof of entitlement by the OFW's beneficiary or recipient (RA 10022).

III. SUMMARY OF CASES ON THE IMPOSITION OF THE DST

Like any other taxes, the legality of the imposition of the DST has been questioned and decided upon by the SC numerous times, which already formed part of the law of the land. It is worth highlighting that under Article VIII, Section 5 of the 1987 Philippine Constitution, the SC shall have the power to review, revise, reverse, modify, or affirm on appeal or certiorari, as the law or the Rules of Court may provide, final judgments and orders of lower courts in all cases involving the legality of any tax, impost, assessment, or toll or any penalty imposed in relation thereto. Below are various DST cases decided upon by the SC.

A. On the persons primarily liable for the payment of the DST

(Philacor Credit Corporation v. Commissioner of Internal Revenue, G.R. No. 169899, February 6, 2013)

Philacor, a domestic corporation engaged in the business of retail financing, was assessed by the Bureau of Internal Revenue (BIR) for deficiency DST on the promissory notes executed by the buyers of appliances on an installment basis in favor of appliance dealers and also on the subsequent assignment of the same in favor of Philacor. The BIR contends that the financing company is liable to the DST for the issuance of promissory notes as the transferee "accepted" the promissory notes from the appliance dealer.

Issue: Whether the petitioner, Philacor Credit Corporation, is liable to pay the DST for both the issuance and subsequent assignment of promissory notes.

SC Decision: The SC ruled that the financing company is not liable to the DST for both the issuance and assignment of promissory notes.

With regard to the issuance of promissory notes, the SC explained that the persons primarily liable for the payment of the DST under Section 173 of the NIRC of 1997, as amended, are the persons (1) making; (2) signing; (3) issuing; (4) accepting; or (5) transferring the taxable documents, instruments, or papers. Should these parties be exempt from paying tax, the other party who is not exempt would then be liable.

Moreover, BIR Revenue Regulations (RR) No. 9-2000[4] interprets the law more widely so that all parties to a transaction are primarily liable for the DST, and not only the person making, signing, issuing, accepting, or transferring the same becomes liable as the law provides. It provides:

> "SEC. 2. Nature of the Documentary Stamp Tax and Persons Liable for the Tax. –
>
> (a) In General. - The documentary stamp tax under Title VII of the Code is a tax on certain transactions. It is imposed against "the person making, signing, issuing, accepting, or transferring" the document or facility evidencing the aforesaid transactions. Thus, in general, it may be imposed on the transaction itself or upon the document underlying such act. **Any of the parties thereto shall be liable for the full amount of the tax due**: Provided, however, that as between themselves, the said parties may agree on who shall be liable or how they may share on the cost of the tax. [emphasis supplied]
>
> (b) Exception. - Whenever one of the parties to the taxable transaction is exempt from the tax imposed under Title VII of the Code, the other party thereto who is not exempt shall be the one directly liable for the tax."

However, this rule cannot be extended to persons who are not parties named in the taxable document or instrument and are merely using or benefitting from it.

According to the SC, the financing company did not make, sign, issue, accept, or transfer the promissory notes. Instead, the buyers of the appliances made,

[4] Entitled, "Identifies the Persons Liable and Responsible for the Payment/Remittance of the Documentary Stamp Tax", (November 22, 2000).

signed, and issued the documents subject to tax, while the appliance dealer transferred the documents to the financing company, which likewise indisputably "received" or "accepted" the promissory notes. As further clarified by the SC, the financing company cannot be made primarily liable for the DST on the issuance of promissory notes just because it has "accepted" the promissory notes in their plain and ordinary meaning.

Similarly, the financing company is also not liable to the DST for the assignment of promissory notes since the transaction is not taxed under the law. The SC held that while there are provisions in the NIRC that specifically impose the DST on the transfer and/or assignment of documents evidencing particular transactions, the assignment or transfer becomes taxable only in connection with mortgages, leases, and policies of insurance. Under Section 198 of the NIRC, the list of transferred or assigned documents subject to the DST does not include the assignment or transfer of evidence of indebtedness. Rather, it is the renewal of evidence of indebtedness that is taxable. Considering that the case at bar does not involve a renewal, but a mere transfer or assignment of the evidence of indebtedness or promissory notes, the assignment of promissory notes is not subject to DST.

B. On transactions subject to DST

(*Commissioner of Internal Revenue v. Ocier, G.R. No. 192023 November 21, 2018)*

The respondent, Ocier, received an assessment notice from the BIR that he incurred deficiencies in the Capital Gains Tax (CGT) and DST for the year 1999. The deficiency assessment arose from the gains that he had realized from the sale of shares of stock of Best World (BW) Resources Corporation through over-the-counter transactions. Based on the BIR's investigation, it appears that the sale/exchange of shares was related to the stock manipulation and insider trading scandal orchestrated by Dante Tan and his associates involving BW Resources shares that affected the Philippine Stock Exchange in 1999.

Ocier alleged that the BIR had erroneously considered as a sale the transfer of a total of 4.9 million BW Resources shares from his account to Tan when it was actually a loan.

Issue: Whether the sale of shares of stock by Ocier is subject to the DST.

SC Decision: The SC ruled in the affirmative. The evidence on record has established that there was a transfer of BW Resources shares, which was the basis for the liability of the respondent.

Although the DST is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale, or transfer of an obligation, right, or property incident thereto, the SC clarified that the subject of the DST is not limited to the document embodying the enumerated transactions. The DST is an excise tax on the exercise of a right or privilege to transfer obligations, rights, or properties incident thereto. The transfer of the shares of stock is an exercise of the privilege to transfer a right and properties incident thereto that is embodied in the stock loan agreement/trust declaration. Accordingly, the transfer of shares of stock made by the respondent was properly subjected to the DST.

C. Whether there is an additional DST on capitalization of surplus

(Commissioner of Internal Revenue v. Heald Lumber Company, G.R. No. L-16340, February 29, 1964)

Upon its incorporation in 1934, Heald Lumber Company's capital stock was divided into 1,000 shares of stock without par value. At the time of the original issuance of the shares of stock, the respondent paid the DST based on the actual consideration it had received from its subscribers.

By 1950, the company had an outstanding surplus of over P300,000 available for dividends. A special meeting of its stockholders was then held, and a resolution was made to transfer the existing surplus available for dividends to the company's capital account for its operation without changing the status or number of the 1,000 no par value shares.

Thereafter, the Regional Director of the BIR required the company to pay an additional DST of P1.00 per share of no par value or the total sum of P1,000 for the increase of the company's capitalization, which was brought about by the transfer of the aforesaid P300,000 from its surplus to its capital account, which resulted in an increased P300 share.

Issue: Whether the increase in the capitalization of the Company is subject to DST.

SC Decision: The SC ruled in the negative. A mere transfer of surplus to capital and an increase in the stated value of a corporation's outstanding no par value shares do not constitute an issuance of shares. Consequently, no additional stamp tax is due on such an increase. Moreover, the basis for the DST on certificates of shares without par value shall be only the actual consideration received by the corporation at the time of the original issuance of the certificates, and any additional consideration that may be received therefor in the future is of no consequence.

A DST is in the nature of an excise tax. It is not imposed upon the business transacted but is an excise upon the privilege, opportunity, or facility offered at exchanges for the transaction of the business. It is an excise upon the facilities used in business transactions, separate and apart from the business itself. With respect to stock certificates, it is levied upon the privilege of issuing them; not on the money or property received by the issuing company of certificates. Neither is it imposed upon the share of stock. As pointed out in one case, DST is levied on the document, not the property it describes. If, therefore, as is apparent from the foregoing discussion, the tax in question is imposed on the privilege of issuing certificates, then the tax may be collected only once: when the certificates are first or originally issued. The reason is because a certificate is issued only once. Whatever the DST is, it is due at that time.

D. Whether deposit on stock subscription is subject to DST.

(Commissioner of Internal Revenue v. First Express Pawnshop Inc., G.R. No. 172045-46, June 16, 2009)

The BIR issued assessment notices against the First Express Pawnshop Company, Inc. for deficiency DST on deposit on stock subscription, among others. However, the respondent alleged that no deficiency DST was due because the NIRC, as amended, does not cover any document or transaction related to the respondent.

Issue: Whether the respondent, First Express Pawnshop Inc., is liable to pay the deficit DST on the deposit on stock subscription.

SC Decision: The SC affirmed the decision of the Court of Tax Appeals (CTA), wherein the latter ruled that a deposit on subscription is not subject to DST in the absence of proof that an equivalent amount of shares was subscribed to or issued in consideration for the deposit. Expressed otherwise, a deposit on stock subscription is not subject to the DST if: (1) there is no agreement to subscribe; (2) there are no shares issued or any additional subscription in the restructuring plan; and (3) there is no proof that the issued shares can be considered as issued certificates of stock.

As pointed out by the CTA, Sections 175 and 176 (now Sections 174 and 175) of the NIRC, as amended, contemplate a subscription agreement for a taxpayer to be liable to pay the DST. A subscription contract is defined as any contract for acquiring unissued stocks in an existing corporation or a corporation still to be formed. A stock subscription is a contract by which the subscriber agrees to take a certain number of shares of the capital stock of a corporation, paying for the same or expressly or impliedly promising to pay for the same.

Based on the company's external auditor testimony and the respondent's financial statements as of 1998, there was no agreement to subscribe to the unissued shares. Here, the deposit on stock subscription refers to an amount of money the corporation receives as a deposit with the possibility of applying the same as payment for the future issuance of capital stock. In *Commissioner of Internal Revenue v. Construction Resources of Asia, Inc.,* the SC held:

As regards those certificates of stock temporarily subject to suspensive conditions, they shall be liable for said tax only when released from said conditions, for then and only then shall they truly acquire any practical value for their owners.

Clearly, the deposit on stock subscription is not a subscription agreement subject to the payment of the DST. There is no P800,000 worth of subscribed capital stock that is reflected in the respondent's General Information Sheet. The deposit on stock subscription is merely an amount of money received by a corporation with the view of applying the same as payment for additional issuance of shares in the future, an event that may or may not happen. The person making a deposit on a stock subscription does not have the standing of a stockholder, and he is not entitled to dividends, voting rights, or other prerogatives and attributes of a stockholder. Hence, the respondent is not liable for the payment of the DST on its deposit on stock subscription because there is yet no subscription that creates rights and obligations between the subscriber and the corporation.

E. Whether a special savings account is subject to DST.

(Philippine Veterans Bank v. Commissioner of Internal Revenue, G.R. No. 205261, April 26, 2021)

The petitioner, Philippine Veterans Bank, is a commercial bank offering the following financial products to its clients: (i) Special Savings Account, (ii) Special Savings Deposit (Government), and (iii) Golden V (Private) (collectively, the Special Savings Accounts). These accounts earned interest income in favor of the bank's clients. The Special Savings Accounts have the following features: (i) they are withdrawable by the depositor at any time through the presentation of a passbook; (ii) the amount of deposit usually runs into millions of pesos; (iii) the deposit is subject to a special rate of interest; (iv) the deposit allows posting of additional or multiple deposits; (v) the deposit allows partial or multiple withdrawals; (vi) the account has no fixed maturity; (vii) the deposit cannot be negotiated nor assigned; and (viii) the deposit cannot be pre-terminated, as there is no fixed maturity.

Later, the BIR issued an assessment notice to the petitioner for deficiency DST on the Special Savings Accounts. The petitioner protested such assessment on the claim that Section 180 of the NIRC, prior to amendment by RA 9243, only imposes DST on "certificates of deposits drawing interest, orders for the payment of any sum of money otherwise than at sight or on demand," and not on those that are payable at sight or on demand. The Special Savings Accounts of the petitioner are payable at sight or on demand, considering that they are withdrawable at any time through the presentation of a passbook. Hence, they are exempt from DST.

Issue: Whether the special savings accounts offered by the petitioner are subject to DST.

SC Decision: The SC ruled that the special savings accounts of the petitioner are subject to the DST.

While the Special Savings Accounts are withdrawable and evidenced by a passbook, the SC has consistently ruled in various cases that these factors do not detract from the nature of the special savings deposit as a certificate of deposit drawing interest. As admitted by the petitioner, the Special Savings Accounts, in this case, involve minimum deposit requirements in order to enjoy a preferential interest rate.

In the case of International Exchange Bank v. CIR, the SC pointed out that there is a legislative intent to impose DST on certificates of deposit that are either: (i) drawing interest significantly higher than the regular savings deposit, taking into consideration the size of the deposit and the risks involved; or (ii) drawing interest and having a specific maturity date. The qualification that a certificate of deposit "drawing interest significantly higher than the regular savings deposit, taking into consideration the size of the deposit and the risks involved," is independent of the fact that the certificate of deposit has a specific maturity date. These two qualifications were included in the amendment of the then Section 180 of the NIRC of 1997, renumbered to Section 179. The amendment was intended to eliminate precisely the scheme used by banks of issuing passbooks to "cloak" their time deposits as regular savings deposits. The SC held that this amendment is only a recognition of the legislative intent to cover certificates of deposit that are withdrawable at any time through the presentation of a passbook, but it does not mean that "prior to its further amendment on said date, Section 180 of the Tax Code and the NIRC time deposits for which passbooks were issued were exempted from payment of DST."

In sum, the imposition of DST on bank deposits depends on the classification and features of such deposits. If the bank deposit is a regular savings deposit (which is withdrawable upon demand), it is exempt from DST. If the bank deposit is a time deposit (which has a maturity period), it is subject to DST. If the bank deposit combines the features of a regular savings deposit and a time deposit, such as the offer of higher interest rates in consideration of a holding period prior to withdrawability, or there is a stipulation of fees, charges, or penalties for pre-termination or early withdrawal, then the same is subject to DST. In this case, the Special Savings Accounts, while not technically considered time deposits, combine the features of a regular savings deposit and a time deposit. Accordingly, the Special Savings Accounts of the petitioner are subject to DST, and the deficiency DST assessment issued by the respondent is correct.

F. On the imposition of DST on foreign bills of exchange and letters of credit.

(Bank of the Philippine Islands v. Commissioner of Internal Revenue, G.R. No. 137002, July 27, 2006)

From February 28, 1986, to October 8, 1986, petitioner Bank of the Philippine Islands (BPI) sold U.S. dollars to the Central Bank of the Philippines (now Bangko Sentral ng Pilipinas) for P1,608,541,900.00. BPI instructed, by cable, its correspondent bank in New York to transfer U.S. dollars deposited in BPI's account therein to the Federal Reserve Bank in New York for credit to the Central Bank's account therein. Thereafter, the Federal Reserve Bank sent to the Central

Bank confirmation that such funds had been credited to its account, and the Central Bank promptly transferred to the petitioner's account in the Philippines the corresponding amount in Philippine pesos.

The Central Bank enjoyed tax exemption privileges from June 11, 1985, until March 9, 1987. However, in 1985, Presidential Decree No. 1994 was enacted, amending Section 222 (now 173) of the NIRC by adding the foregoing: whenever one party to the taxable document enjoys exemption from the tax herein imposed, the other party thereto who is not exempt shall be the one directly liable for the tax.

In 1988, the respondent Commissioner of Internal Revenue (CIR) ordered an investigation into the BPI's sale of foreign currency. As a result, the CIR issued a pre-assessment notice informing BPI that, in accordance with Section 195 (now Section 182) of the NIRC, the BPI was liable for DST at the rate of P0.30 per P200.00 on all foreign exchange sold to the Central Bank in 1986.

Issue: Whether the BPI is liable for DST on its sale of foreign exchange to the Central Bank in 1986.

SC Decision: The SC ruled in the affirmative, ordering BPI to pay the respondent CIR the deficiency DST.

Section 195 (now Section 182) of the NIRC, quoted hereunder:

"Sec. 182. **Stamp tax on foreign bills of exchange and letters of credit.** On all foreign bills of exchange and letters of credit (including orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons) drawn in but payable out of the Philippines in a set of three or more according to the custom of merchants and bankers, there shall be collected a documentary stamp tax of thirty centavos on each two hundred pesos, or fractional part thereof, of the face value of such bill of exchange or letter of credit, or the Philippine equivalent of such face value, if expressed in foreign country."

A discussion on the nature of the acts covered by Section 195 (now Section 182) of the NIRC is indispensable to determine what is being taxed under this section. This section imposes a DST on (1) foreign bills of exchange, (2) letters of credit, and (3) orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons. This enumeration is further limited by the qualification to be drawn in the Philippines and payable outside the Philippines.

BPI alleges that the assailed decision must be reversed since the sale between them and the Central Bank of foreign exchange, as distinguished from foreign bills of exchange, is not subject to the DST prescribed in Section 195 (now Section 182) of the NIRC. In this case, it is not the sale of foreign exchange per se that is being taxed under Section 195 (now Section 182) of the NIRC. This section refers to a DST, which is an excise upon the facilities used in business transactions, separate and apart from the business itself. It is not a tax upon the business itself, which is so transacted, but it is a duty upon the facilities made use of and actually employed in the transaction of the business, and separate and apart from the business itself. Section 195 (now Section 182) of the NIRC covers foreign bills of exchange, letters of credit, and orders of payment for money drawn in the Philippines but payable outside the Philippines. From this enumeration, two common elements need to be present: (1) drawing the instrument or ordering a drawee within the Philippines; and (2) ordering that drawee to pay another person a specified amount of money outside the Philippines. What is being taxed is the facility that allows a party to draw the draft or make the order to pay within the Philippines and have the payment made in another country.

G. On the imposition of DST on insurance policies.

(Commissioner of Internal Revenue v. Manila Banker's Life Insurance Corporation, G.R. No. 169103, March 16, 2011)

Respondent Manila Bankers' Life Insurance Corporation, a duly organized domestic corporation primarily engaged in the life insurance business, was issued an assessment notice by the BIR for the deficiency DST on its policy premiums and penalties.

The deficiency DST was assessed based on the increases in the life insurance coverage of two kinds of policies: the "Money Plus Plan," which is an ordinary term life insurance policy; and the group life insurance policy. The increases in the coverage of the life insurance policies were brought about by the premium payments made subsequent to the issuance of the policies. The Money Plus Plan is a 20-year term ordinary life insurance plan with a "Guaranteed Continuity Clause," which allows the policyholder to continue the policy after the 20-year term subject to certain conditions. Under the plan, the policyholders paid their premiums in five separate periods, with the premium payments, after the first period premiums, to be made only upon reaching a certain age. The succeeding premium payments translated to increases in the sum assured. Thus, the petitioner believed that since the DST was affixed to the policy based only on the first period premiums, then the succeeding premium payments should likewise be subject to DST. In the case of the respondent's group insurance, the deficiency DST was imposed on the premiums for the additional members to the already existing and effective master policies. The petitioner concluded that any additional member to the group of employees, who were already insured under the existing mother policy, should similarly be subjected to DST.

However, the respondent alleged that the tax base to be used in computing the DST is the value when the instrument was issued because DST is levied and paid only once, which is when the taxable document is issued.

Issue: Whether DST should be imposed on the increase in coverage or sum assured by existing life insurance policies, even without the issuance of new policies.

SC Decision: The SC ruled in the affirmative. Though imposed on the document itself, the DST on insurance policies is actually levied on the privilege to conduct insurance business. Under Section 173, the DST becomes due and payable when the insurance policy is issued, with the tax based on the amount insured by the policy as provided for in Section 183.

However, it is clear from the "guaranteed continuity clause" in its Money Plus Plan that the respondent was actually offering the option to renew the policy after the expiration of its original term. Consequently, the acceptance of this offer would give rise to the renewal of the original policy. Although the policy would still continue with essentially the same terms and conditions, the fact is that its maturity date, coverage, and premium rate would have changed. The renewal was not meant to restore the original terms of an old agreement, but instead, it was meant to extend the life of an existing agreement, with some of the contract's terms modified. This renewal was still subject to the insured and respondent's acceptance and the conditions. This is entirely different from a simple mutual agreement between the insurer and the insured to increase the coverage of an existing and effective life insurance policy.

Accordingly, the availment of the option in the guaranteed continuity clause will effectively renew the Money Plus Plan policy, which is indisputably subject to the imposition of DST under Section 183 as an insurance renewed upon the life of the insured.

With regard to the DST on group life insurance, whenever a master policy admits another member, another life is insured and covered. This means that the respondent, by approving the addition of another member to its existing master policy, is once more exercising its privilege to conduct the business of insurance, because it is yet again insuring a life. Every time the respondent registers and attaches an Enrollment Card to an existing master policy, it exercises its privilege to conduct its business of insurance, and this is patently subject to the DST as insurance made upon life under Section 183 of the NIRC of 1997, as amended.

H. Whether the increase in insurance coverage is subject to DST

(Commissioner of Internal Revenue v. Lincoln Philippine Life Insurance Company, Inc., G.R. No. 119176, March 19, 2002)

The CIR issued to Lincoln Philippine Life Insurance, Co., a deficiency DST assessment amounting to P464,898.75 for the year 1984. This came about as a result of a special kind of life insurance policy issued by Lincoln known as the Junior Estate Builder Policy, which had a clause providing for an automatic increase in the amount of life insurance coverage upon attainment of a certain age by the insured without the need of issuing a new policy, which was to take effect in 1984.

The DST due on the policy was paid by Lincoln only on the initial sum assured. The CTA, upon Lincoln's appeal, cancelled the deficiency assessment. But the CIR argued that the automatic increase clause in the insurance policy in question is separate and distinct from the main agreement and involves another transaction, and that, while no new policy was issued, the original policy was essentially reissued when the additional obligation was assumed upon the effectivity of this automatic increase clause in 1984.

Therefore, a DST assessment based on the additional insurance not covered in the main policy was warranted.

Issue: Whether Lincoln Philippine Life Insurance, Co., is liable for the deficiency DST arising from the "automatic increase clause" of its life insurance policy.

SC Decision: The SC ruled in the affirmative, ordering the respondent to pay the deficiency DST corresponding to the increase in 1984 of the sum under the policy issued by the latter.

The subject insurance policy, when it was issued, contained an "automatic increase clause." Although the clause was to take effect only in 1984, it was written into the policy at the time of its issuance. The distinctive feature of the "junior estate builder policy," called the "automatic increase clause," already formed part and parcel of the insurance contract; hence, there was no need for the execution of a separate agreement for the increase in coverage that took effect in 1984 when the insured reached a certain age.

It is clear from Section 173 that the payment of DST is done at the time the act is done or the transaction had, and the tax base for the computation of DST on life insurance policies under Section 183 is the amount fixed in the policy, unless the interest of a person insured is susceptible of exact pecuniary measurement. What then is the amount fixed in the policy? Logically, the SC believes that the amount fixed in the policy is the figure written on its face, and whatever increases will take effect in the future by reason of the "automatic increase clause" embodied in the policy without needing another contract.

Here, although the automatic increase in the amount of life insurance coverage was to take effect later on, the date of its effectivity, as well as the amount of the increase, was already definite at the time of the issuance of the policy. Thus, the amount insured by the policy at the time of its issuance necessarily included the additional sum covered by the automatic increase clause because it was already determinable at the time the transaction was entered into and formed part of the policy.

The "automatic increase clause" in the policy is in the nature of a conditional obligation under Article 1181[5] of the New Civil Code, by which the increase of the insurance coverage shall depend upon the happening of the event that constitutes the obligation. In the instant case, the additional insurance that took effect in 1984 was an obligation subject to a suspensive obligation, but still a part of the insurance sold to which the private respondent was liable for the payment of the DST.

The deficiency of DST imposed on the private respondent is definitely not on the amount of the original insurance coverage but on the increase of the amount insured upon the effectivity of the "Junior Estate Builder Policy."

I. Whether Health Maintenance Organizations (HMOs) are subject to DST.

(Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue, G.R. No. 167330, September 18, 2009)

Petitioner is a domestic corporation whose primary purpose is "[t]o establish, maintain, conduct and operate a prepaid group practice health care delivery system or a health maintenance organization to take care of the sick and disabled persons enrolled in the health care plan and to provide for the administrative, legal, and financial responsibilities of the organization." Individuals enrolled in its health care programs pay an annual membership fee and are entitled to various preventive, diagnostic, and curative medical services provided by its duly licensed physicians, specialists, and other professional technical staff participating in the group practice health delivery system at a hospital or clinic owned, operated or accredited by it.

In 2000, the respondent CIR sent the petitioner a formal demand letter and the corresponding assessment notices demanding the payment of deficiency DST, among others, which was imposed on the petitioner's health care agreement with the members of its health care program. The CIR claimed that the said agreement was a contract of insurance subject to DST under Section 185 of the NIRC, as amended.

Issue: Whether HMOs' contracts are considered contracts of insurance subject to DST.

SC Decision: The SC ruled in the negative. Section 185 of the NIRC of 1997, as amended, provides:

"Section 185. Stamp tax on fidelity bonds and other insurance policies. – **On all policies of insurance** or bonds **or obligations of the nature of indemnity for loss, damage, or liability** made or renewed by any person, association company, or corporation transacting the business of accident, fidelity, employer's

[5] Art. 1181. In conditional obligations, the acquisition of rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.

liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance), x x x." (emphasis supplied)

From the language of Section 185, it is evident that two requisites must concur before the DST can be applied, namely: (1) the document must be a policy of insurance or an obligation in the nature of indemnity; and (2) the maker should be transacting the business of accident, fidelity, employer's liability, plate, glass, steam boiler, burglar, elevator, automatic sprinkler, or other branch of insurance (except life, marine, inland, and fire insurance).

Section 2(1) of the Insurance Code defines a contract of insurance as an agreement whereby one undertakes for a consideration to indemnify another against loss, damage, or liability arising from an unknown or contingent event. An insurance contract exists where the following elements concur: (1) the insured has an insurable interest; (2) the insured is subject to a risk of loss by the happening of the designed peril; (3) the insurer assumes the risk; (4) such assumption of risk is part of a general scheme to distribute actual losses among a large group of persons bearing a similar risk; and (5) in consideration of the insurer's promise, the insured pays a premium.

As discussed by the SC, even if a contract contains all the elements of an insurance contract, if its primary purpose is the rendering of service, it is not a contract of insurance. Further, not all the necessary elements of a contract of insurance are present in the petitioner's agreements. To begin with, there is no loss, damage, or liability on the part of the member that the petitioner should indemnify as an HMO. There is no indemnity precisely because the member merely avails of medical services to be paid or already paid in advance at a pre-agreed price under the agreements. The agreement also provides that a member can take advantage of the bulk of the benefits anytime, even in the absence of any peril, loss, or damage on his or her part. The assumption of the expense by the petitioner is not confined to the happening of a contingency but includes incidents even in the absence of illness or injury. Finally, although risk is a primary element of an insurance contract, the petitioner, as an HMO, undertakes a business risk: the risk that it might fail to earn a reasonable return on its investment, and not an insurance (actuarial) risk or the risk that the cost of insurance claims might be higher than the premiums paid.

J. Whether pawn ticket is subject to DST.

(Michel J. Lhuiller Pawnshop, Inc. v. Commissioner of Internal Revenue, G.R. No. 166786, May 3, 2006)

The petitioner, Michel J. Lhuiller Pawnshop, is a corporation engaged in the pawnshop business. It received assessment notices for deficiency VAT and deficiency DST for the year 1997. The petitioner filed a motion for reconsideration of said assessment notices but was denied by the Commissioner of Internal Revenue.

On the petition for review with the CTA, the latter decided to favor the petitioner, setting aside the assessment notices issued by the CIR. It ruled, *inter alia*, that the subject of a DST under Section 195 of the NIRC, as amended, is the document evidencing the covered transaction. Holding that a pawn ticket is neither a security nor printed evidence of indebtedness, the tax court concluded that such a pawn ticket cannot be the subject of a DST.

Issue: Whether the petitioner's pawnshop transactions are subject to DST.

SC Decision: The SC ruled in the affirmative. The subject of a DST is not limited to the document embodying the enumerated transactions under Sections 173 and 195 of the NIRC, as amended. A DST is an excise tax on the exercise of a right or privilege to transfer obligations, rights, or properties incident thereto. Pledge is among the privileges, the exercise of which is subject to DST under Section 195 of the NIRC, as amended. A pledge may be defined as an accessory, real, and unilateral contract by virtue of which the debtor or a third person delivers to the creditor or a third person movable property as security for the performance of the principal obligation, upon the fulfillment of which the thing pledged, with all its accessions and accessories, shall be returned to the debtor or the third person. This is essentially the business of pawnshops, defined under Section 3 of Presidential Decree No. 114[6], or the Pawnshop Regulation Act, as persons or entities engaged in lending money on personal property delivered as security for loans.

The pawn ticket, as defined in Section 3 of the Pawnshop Regulation Act, is the pawnbrokers' receipt for a pawn. It is neither a security nor a printed evidence of indebtedness. True, the law does not consider said ticket as evidence of security or indebtedness. However, for taxation purposes, the same pawn ticket is proof of an exercise of the taxable privilege of concluding a contract of pledge. At any rate, it is not the ticket that creates the pawnshop's obligation to pay DST but the exercise of the privilege to enter into a contract of pledge. Therefore, there is no basis for the petitioner's assertion that a DST is a tax on a document and that no tax may be imposed on a pawn ticket.

IV. DST PROPOSALS UNDER PACKAGE 4 OF THE CTRP

Package 4 of the CTRP is designed primarily not to generate revenue for the government but to fix the tax system in order to deepen the capital and financial markets so that, in the long term, it can generate a future revenue stream to fund the government's priority programs, create more and better jobs, and boost the inclusive and sustainable growth of the economy. It aims to achieve a simpler, fairer, more efficient, and regionally competitive tax system for passive income and financial intermediaries.

[6] Entitled, "Regulating the Establishment and Operation of Pawnshops", (January 29, 1973).

The current Package 4 bill, or House Bill No. 4339[7], was approved on the third and final reading at the House of Representatives on November 14, 2022, and was transmitted to the Senate on November 15, 2022. Currently, there are four Package 4 bills filed in the Senate.

One of the primary objectives of Package 4 includes the rationalization of DST on financial transactions to reduce friction costs in the capital market and financial intermediation. The guiding principles considered in reforming the DST structure are as follows:

(a) To express all DST rates in percent instead of differentiated tax bases and tax rates;

(b) To equalize DSTs on debt and equity instruments;

(c) To unify all non-life insurance DST rates;

(d) To remove DST on domestic money transfers to support financial inclusion; and

(e) To remove provisions with low revenue take.

Below are some of the DST proposals and their rationale under Package 4.

(a) HMOs will be subjected to the same DST rate imposed on life insurance policies under Section 183 of the NIRC, as amended, which varies from exempt to P200 depending on the amount of insurance. The measure is to align its tax treatment with life and health insurance companies and level the playing field among similar life/health–related products.[8]

(b) The DST on sales, agreements to sell, memoranda of sales, deliveries, or transfers of shares of or certificates of stocks under Section 175 of the NIRC of 1997, as amended, is proposed to be repealed. The removal of the DST on the secondary transfer of unlisted shares of stock aims to equate it with the DST exemption of fixed income and other securities traded in the secondary market or through an exchange as provided under Section 199 (f) of the NIRC, as amended. The objective of Package 4 is to remove all DST imposed on secondary trading as well as those traded over the counter. Thus, the DST will be imposed on original issuances only. Consequently, Package 4 will reduce friction costs on succeeding transfers.

(c) The DST for mortgages, pledges, and deeds of trust under Section 195 will be reduced from 0.4% to 0.3%. This would reduce the DST on pawn tickets and pledges, thus lessening the financial burden of individuals dealing with pawn loans and pledges who are in dire need of cash.

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[7] Entitled, "An Act Amending Sections 6, 22,24,25,27,28,32, 34,37, 38,39, 42,51, 52,54, 56,57, 73, 108, 109, 112, 121, 122, 123, 127, 149,174, 176, 179, 181, 182, 183, 184, 185, 186, 187,190,195,198,199, 204, 222, 237, 237-A, 255, 256, 257, 258, 261, 263, 264, 266, 275; Inserting New Section 270-A; and Repealing Sections 175, 177, 178, 180,188,192, And 193; all under Republic Act No. 8424, otherwise known as the National Internal Revenue Code of 1997, as amended", Nineteenth Congress, First Regular Session.

[8] In the same vein, instead of the current 12% value added tax, HMO companies will be subject to 2% premium tax to be similarly taxed as life insurance companies.

(d) The DST imposed on the assignments of certain instruments under Section 198 of the NIRC of 1997, as amended, is removed as they have already been subjected to the DST upon their original issuance. However, the DST will be imposed on evidence of obligation or indebtedness if the alteration is to extend its term or maturity. Thus, renewals on certain instruments will still be subject to the DST.

(e) Under Package 4, Collective Investment Schemes (CIS), such as mutual funds, unit investment trust funds, and variable unit-linked products, will be treated similarly to shares of stock for tax purposes. Section 174 of the NIRC of 1997, as amended, provides for a 1% DST on the original issue of shares of stock, which is proposed to be reduced to 0.75%. Given this, all CIS will likewise be subject to a DST of 0.75%. In the same vein, the redemption, sale, barter, exchange, or other modes of disposition or exchange of units of participation in a CIS or other CIS listed and traded in a local exchange or organized marketplace will also be exempt from the DST to equate with the DST exemption of shares of stock listed traded through the local stock exchange under Section 199(e) and on secondary trading under Section 175 of the NIRC of 1997, as amended, which is being proposed to be repealed.

V. CONCLUSION

The DST has long been enforced and is recognized as a stable and reliable source of government revenue. It is by nature an excise tax 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, and because of its nature, questions as to its imposition have been raised numerous times before the SC.

In the imposition of the DST, the SC explained that the persons primarily liable for the payment of the DST are the persons (1) making; (2) signing; (3) issuing; (4) accepting; or (5) transferring the taxable documents, instruments, or papers. Should these parties be exempted from paying tax, the other party who is not exempt would then be liable. Moreover, the SC also points out that the subject of the DST is not limited to the document embodying the enumerated transactions in the NIRC, as amended. The DST, being an excise tax, is also imposed on the exercise of a right or privilege to transfer obligations, rights, or properties incident thereto.

Further, the imposition of DST on various documents/instruments/transactions, such as deposits on stock subscriptions, special savings accounts, foreign bills of exchange, insurance policies, HMOs, and pawn tickets, among others, was also clarified by the SC.

The complexity of the structure of the DST cannot be denied. Thus, the need to review its current structure may be considered to achieve simplicity, remove arbitrage, lessen friction costs, and level the playing field among similar documents/instruments/transactions.

With the possible passage of Package 4, the DST structure would be rationalized to make financial transactions easier and faster to complete, thus enhancing taxpayer compliance and efficiency in revenue collection.

LEGISLATION AND ISSUANCES WITH REVENUE OR TAX IMPLICATIONS
September – October

REPUBLIC ACT (RA)

Legislation	Subject	Date of issue	Date of effectivity
RA 11964	Automatic Income Classification of Local Government Units Act	October 26, 2023	Fifteen days after its complete publication in the Official Gazette or in a newspaper of general circulation.

EXECUTIVE ORDER (EO)

Issuance	Subject	Date of issue	Date of effectivity
EO 41	Prohibiting the collection of pass-through fees on national roads and urging local government units to suspend the collection of any form of fees upon all types of vehicles transporting goods under Section 153 or 155 of Republic Act No. 7160 or the “Local Government Code of 1991”	September 25, 2023	Fifteen days after its publication in the Official Gazette or in a newspaper of general circulation.

REVENUE REGULATIONS (RR)

Issuance	Subject	Date of issue	Date of effectivity
RR 10-2023	Amending Certain Provisions of Revenue Regulations No. 6-2019, as Amended, to Implement the Extension on the Period of Availment of the Estate Tax Amnesty Pursuant to Republic Act No. 11956, Further Amending RA No. 11213, Otherwise Known as the "Tax Amnesty Act", as Amended by RA No. 11569	September 8, 2023	Immediately from the date of its publication in the newspaper of general circulation or Official Gazette
RR 11-2023	Prescribing the Use of Electronic Mail (E-mail) and Electronic Signature as Additional Mode of Service of the Warrant of Garnishment Pursuant to Section 208 in Relation to Section 244 of the National Internal Revenue Code (NIRC) of 1997, as Amended	September 14, 2023	September 29, 2023
RR 12-2023	Implementing Section 237 of the National Internal Revenue Code of 1987, as amended, on the Issuance of Receipts or Sales or Commercial Invoices by Agricultural Producers	October 2, 2023	October 19, 2023

REVENUE MEMORANDUM ORDER (RMO)

Issuance	Subject	Date of issue	Date of effectivity
RMO 33-2023	Reiteration of Section 3.J of Revenue Regulations No. 17-2023 on the Withholding of Taxes for the Sale of Real Property on Installment Plan	September 29, 2023	Immediately
RMO 34-2023	Amending RMO No. 27-2023 on the Allocation of the CY 2023 BIR Collection Goal by Implementing Office	October 19, 2023	Immediately

REVENUE MEMORANDUM CIRCULAR (RMC)

Issuance	Subject	Date of issue	Date of effectivity
RMC 91-2023	Circularizing the Amendment to Rule 18, Section 5 of the Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 11534 or the Corporate Recovery and Tax Incentives for Enterprises (CREATE) Act	September 11, 2023	-
RMC 92-2023	Availability of BIR Form No. 1621 in the Electronic Filing and Payment System (eFPS)	September 13, 2023	Immediately
RMC 93-2023	Publishing the Updated List of Registered Manufacturers/Importers/ Exporters with the Corresponding Product Brands/Variants of Cigarettes, Heated Tobacco Products, Vapor Products, and Novel Tobacco Products and Integration of the Requirements for Compliance Purposes	September 13, 2023	-
RMC 95-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/Industries Under Region IV-A (CALABARZON) as Prescribed by Wage Order No. IVA-20	September 19, 2023	-
RMC 96-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/Industries Under Region VII (Central Visayas) as Prescribed by Wage Order No. ROVII-24	September 19, 2023	-
RMC 97-2023	Tax Compliance Reminders to All Candidates and Other Participants in Any National or Local Elections, Including Barangay or Sangguniang Kabataan (SK) Elections	September 22, 2023	Immediately
RMC 99-2023	Clarifications on the Applicable Taxes Due on Sale of Real Property Considered as Ordinary Assets of the Seller and Other Relevant Matters	October 3, 2023	-

Issuance	Subject	Date of issue	Date of effectivity
RMC 100-2023	Clarifies certain Issues in the remittance Procedures for Documentary Stamp Tax (DST) under Section 3 of RR No. 2-2023	October 4, 2023	-
RMC 104-2023	Circularizing the Updated List of Accredited Microfinance Non-Government Organizations (NGOs)	October 6, 2023	-
RMC 105-2023	Clarification and Guidance on the Affixture of Internal Revenue Stamps on Vapor Products Pursuant to Section 9 of Revenue Regulations (RR) No. 18-2021 and Section 4 (H) of RR No. 14-2022	October 10, 2023	Immediately
RMC 106-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/Industries Under Region XII (SOCCSKSARGEN) as Prescribed by Wage Order No. RB XII-23	October 10, 2023	-
RMC 107-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/Industries Under Region II (Cagayan Valley) as Prescribed by Wage Order No. RTWPB 2-22	October 10, 2023	-
RMC 108-2023	Circularizing the New Daily Minimum Wage Rates in Certain Sectors/Industries Under Region III (Central Luzon) as Prescribed by Wage Order No. RBIII-24	October 10, 2023	-
RMC 109-2023	Availability of the Taxpayer Registration-Related Applications (TRRA) Portal	October 13, 2023	October 16, 2023
RMC 111-2023	Circularizing the Posting on the BIR Website of All Wage Orders Issued by the Regional Tripartite Wages and Productivity Board (RTWPB)	October 16, 2023	Immediately

Issuance	Subject	Date of issue	Date of effectivity
RMC 112-2023	Clarification on the Duty of the Food and Drug Administration to Determine Classification of Beverages Pursuant to Sec. 150-B of the National Internal Revenue Code of 1997, as Amended, and as Implemented by Revenue Regulations No. 20-2018	October 17, 2023	Immediately
RMC 115-2023	The Classification of Costs Associated on Franchises, Concessions, Licenses, Rights, Operations Agreements or Similar Arrangements Granted by the Government to Operate a Public Service, Including Public Utility as an Administrative Cost Instead of "Direct Cost of Services", for Purposes of Computing the Gross Income to Determine the Optional Standard Deduction (OSD) Under Section 34(L) of the Tax Code of 1997, as Amended by Section 3 of Republic Act No. 9504	October 31, 2023	Immediately

OTHERS:

Issuance	Subject	Date of issue	Date of effectivity
Bureau of Customs (BOC) Customs Memorandum Order (CMO) No. 15-2023	Amendment to Customs Memorandum Order No. 04-2020 Re: Establishment of an Electronic Tracking of Containerized Cargo System (E-TRACC System) and Accreditation of a Service Provider for the Purpose	September 5, 2023	September 20, 2023
BOC-CMO No. 16-2023	Procedures on the Processing of Claims for Duty Drawback Pursuant to Customs Administration Order (CAO) No. 4-2019	October 12, 2023	November 1, 2023

Issuance	Subject	Date of issue	Date of effectivity
DBM-DOF-DILG Joint Memorandum Circular No. 1	*April 27, 2023* Supplemental Guidelines to DBM-DOF-DILG JMC NO. 1, S. 2020 Relative to the Utilization of the Twenty Percent (20%) Component of the Annual National Tax Allotment1 (20% Development Fund) for the Implementation of Community-Based Monitoring System	September 9, 2023	Immediately upon its complete publication in the Official Gazette or in newspaper of general circulation
DBM Local Budget Memorandum No. 81	Guidelines on the Use of Savings or Unutilized Shares of LGUs from Excise Tax on locally Manufactured Virginia-type Cigarettes under Republic Act No. 7171, and Burley and Native Tobacco Excise Tax Pursuant to RA No. 8240, as Amended, by RA No. 10351, chargeable Against the Allocations to LGUs (ALGUs) under Existing General Appropriations Acts (GAAs) FY 2019	September 14, 2023	Immediately upon its complete publication in the Official Gazette or in newspaper of general circulation
BOC Customs Memorandum Circular (CMC) No. 152-2023	Implementation of the Security and Exchange Commission Memorandum Circular (MC) No. 2, Series of 2023, With the Subject: "Grant of Amnesty for Non-Filing and Late Filing of the General Information Sheet and Annual Financial Statement, and Non-Compliance with MC No. 28, S. 2020"	September 18, 2023	October 3, 2023

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