

THIRD DIVISION

[G.R. No. 172359, October 02, 2009]

**CHINA BANKING CORPORATION, PETITIONER, VS. THE
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.**

DECISION

PERALTA, J.:

Before this Court is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to set aside the January 3, 2006 Decision^[2] and March 20, 2006 Resolution^[3] of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. EB No. 66 (C.T.A Case No. 6400).

The facts of the case.

Petitioner China Banking Corporation, a universal banking corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, was engaged in the transaction of accepting special savings deposits (SSD), otherwise known as "Savings Plus Deposit."^[4]

On September 23, 1999, petitioner received a Pre-Assessment Notice^[5] (PAN) issued by respondent Commission on Internal Revenue, assessing it for deficiency documentary stamp tax on its Reverse Repurchase Agreements (RRA) and SSDs for the taxable years 1994 and 1995 in the total amount of Php 27,451,844.09 including increments thereon.

On October 6, 1999, petitioner sent a letter^[6] to respondent whereby it manifested its formal disagreement to the PAN.

Subsequently, petitioner received a Final Assessment Notice (FAN) dated October 8, 1999, which reiterated petitioner's liability for deficiency documentary stamp tax on its RRAs and SSDs for the taxable years 1994 and 1995. The same was detailed as follows, to wit:

For the year 1994

A. Reverse Repurchase
Agreements

P 424,000,000.00

B. Special Savings Accounts			2,142,305,326.67

Total			2,566,305,326.67
Rate of Tax			0.15%

Total Tax due thereon			3,849,457.98
Add:			
	25%	962,364.50	
	Surcharge		
	Compromise	25,000.00	987,364.50
	Penalty		

Total Deficiency DST- Industry Issue			P4,836,822.48^[7]

For the year 1995

A. Reverse Repurchase Agreements			P 9,773,000,000.00
B. Special Savings Accounts			2,275,011,526.88

Total			12,048,011,526.88
Rate of Tax			0.15%

Total Tax due thereon			P 18,072,017.29
Add:			
	25%	4,518,004.32	
	Surcharge		
	Compromise	25,000.00	4,543,004.32
	Penalty		

Total Deficiency DST-Industry Issue			P 22,615,021.61^[8]

On November 24, 1999, petitioner filed a formal protest^[9] questioning the legality and basis of both the PAN and the FAN. In said protest, petitioner contested the basis of the assessment of deficiency documentary stamp tax on its SSDs in the following manner, to wit:

x x x x

B. On the Special Savings Account:

With respect to the Savings Plus Deposit transactions, the latter is also not subject to documentary stamp tax because by the very nature of the transaction

which is just a variation of the regular savings account, the same is not taxable under the aforementioned Section 180. Let us consider some salient features of the product that differentiates it from a Time Deposit Account:

1. The terms and conditions of the Savings Plus Deposit are provided for in the traditional passbook form as distinguished from a Time Deposit Account which is evidenced by a certificate of deposit.
2. In a time deposit, there is no partial withdrawal. The term is preterminated and the certificate of deposit is cancelled and surrendered and the entire amount is paid to the depositor. In the case of Savings Plus Deposit, however, there is partial withdrawal, which is posted in the passbook. The amount withdrawn is paid to the depositor and the passbook is returned to the depositor. In other words, the Savings Plus Deposit, contrary to the basis for assessment, represents a continuing fund which is open to deposits and withdrawals anytime, and therefore, falls under the category of certificates of deposit at sight or on demand which is exempt from documentary stamp tax.
3. When fifty percent (50%) of the term of a Time Deposit had lapsed, interest to be paid is fifty percent (50%) of the agreed rate. When less than fifty percent (50%) of the term had lapsed, interest to be paid is twenty-five percent (25%) of the agreed rate. In the case of a Savings Plus Deposit, however, amount withdrawn earns only the regular fixed savings rate of three percent (3%).
4. The features of the product in no way resemble that of a promissory note or a certificate of indebtedness, and
5. The intention, not any occasional error in the implementation of the product, should be the basis of taxation. A correctible error in the implementation does not convert a non-taxable product into a taxable one.

In view of all the foregoing reasons and considerations, we hereby request that subject assessment notice be recalled and/or reconsidered, the same not being due and demandable from China Bank, under the premises.^[10]

On December 20, 1999, petitioner received a Preliminary Agreement Notice^[11] dated December 17, 1999, assessing petitioner's deficiency documentary stamp taxes on its RRAs and SSDs covering the taxable years 1996 and 1997. Like in the first assessment, petitioner sent a letter^[12] manifesting its disagreement thereto.

On December 29, 1999, a formal letter of demand^[13] was received by petitioner whereby respondent demanded the total amount of P13,781,350.00, representing deficiency documentary stamp tax on petitioner's RRAs and SSDs for the taxable years 1996 and 1997.

On January 26, 2000, petitioner sent a letter^[14] to respondent reiterating its position that the RRAs and SSDs were not subject to documentary stamp tax.

On February 18, 2000, respondent sent a notice^[15] to petitioner setting an informal hearing with regard to the protest made by the latter on the assessment of deficiency documentary stamp tax on its RRAs and SSDs. On April 7, 2000, petitioner submitted its final position paper.^[16]

On January 11, 2002, respondent rendered a Decision^[17] resolving to cancel and withdraw the assessments for deficiency documentary stamp tax on petitioner's RRAs covering the taxable years 1994, 1995 and 1996. However, said decision affirmed the assessments for alleged deficiency documentary stamp tax on petitioner's RRAs for the year 1997 as well as on its SSDs covering the taxable years 1994 to 1997. The dispositive portion of said decision is hereunder quoted, to wit:

IN VIEW WHEREOF, this Office do hereby resolved the following:

1. The protest of herein protestant bank on the deficiency stamp taxes on RRP's covering the years 1994, 1995 and 1996 under the following Assessment Notices, to wit:

Assessment Notice No.	Amount	Year
ST-DST-94-0054-99	P 820,000.00	1994
ST-DST-95-0055-99	P18,349,375.00	1995
ST-DST-96-0374-99	P 1,976,250.00	1996

are hereby withdrawn and cancelled and the same are considered closed and terminated.

2. The protest of herein protestant bank on the deficiency stamp tax on RRP's for 1997 under Assessment Notice No. ST-DST-97-0372-99 demanding payment of P3,523,600.00 is hereby affirmed and reiterated.

3. The protest of herein protestant bank on the deficiency stamp taxes on SSA covering the taxable years 1994, 1995, 1996 and 1997 under the following Assessment Notices, to wit:

Assessment Notice No.	Amount	Year
ST-DST-94-0054-99	P4, 041,822.48	1994
ST-DST-95-0055-99	4,290,646.61	1995

are hereby affirmed in all respects.

Consequently, the protestant bank is hereby ordered to pay the above- stated amounts plus interest that may have accrued thereon until actual payment to the Collection Service, BIR National Office, Diliman, Quezon City, within thirty (30) days from receipt hereof, otherwise, the collection thereof shall be effected through the summary remedies provided by law.

This constitutes the final decision of this Office on the matter.^[18]

On February 22, 2002, petitioner appealed to the Court of Tax Appeals (CTA) *via* a Petition for Review,^[19] the same was docketed as C.T.A. Case No. 6400.

On October 14, 2004, the CTA rendered a Decision^[20] partially granting the petition, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, the subject Petition for Review is hereby PARTIALLY GRANTED. Assessment Notice No. ST-DST-97-0372-99 for deficiency documentary stamp taxes on petitioner's Reverse Repurchase Agreement Transactions in the amount of P3,523,600.00 covering the taxable year 1997 is hereby CANCELLED AND WITHDRAWN. However, Assessment Notice Nos. ST-DST-94-0054-99, ST-DST-95-0055-99, ST-DST-96-0371-99, and ST-DST-96-0373-99 for deficiency documentary stamp taxes on petitioner's Special Savings Deposit Accounts for the taxable years 1994, 1995, 1996 and 1997, respectively, are UPHeld but in the following modified amounts:

x x x x

Accordingly, petitioner is ORDERED TO PAY the above recomputed documentary stamp tax liabilities of P4,016,822.48, P4,265,646.61, P1,218,750.00 and P1,890,000.00 or in the total amount of P11,391,219.09, plus 20% delinquency interest from February 24, 2002 until full payment thereof pursuant to Section 249 (c) of the 1997 Tax Code.

SO ORDERED.^[21]

On November 9, 2004, petitioner filed a Motion for Partial Reconsideration,^[22] specifically assailing the portion of the CTA Decision affirming the assessment of deficiency documentary stamp tax on its SSDs.

On February 2, 2005, the CTA issued a Resolution^[23] denying petitioner's motion for partial reconsideration.

Aggrieved with the Decision and Resolution of the CTA, petitioner then filed a petition for review^[24] before the CTA *en banc*.

On January 3, 2006, the CTA *en banc* rendered a Decision^[25] denying said petition, the dispositive portion of which reads:

WHEREFORE, the instant petition is hereby DENIED DUE COURSE, and accordingly, DISMISSED for the above-stated reasons. The assailed Decision and Resolution are hereby AFFIRMED.^[26]

The CTA *en banc* ruled that a deposit account which have the same features as a time deposit account, *i.e.*, a fixed term in order to earn a higher interest rate, is subject to the Documentary Stamp Tax imposed in Section 180^[27] of the 1997 National Internal Revenue Code.^[28] Specifically, the CTA *en banc* held that the SSDs are "certificates of deposit drawing interest" as contemplated under Section 180.

Petitioner then filed a Motion for Partial Reconsideration,^[29] which was, however, denied by the CTA *en banc* in a Resolution^[30] dated March 20, 2006.

Hence, herein petition, with petitioner raising the following errors, to wit:

I

IN RENDERING THE QUESTIONED DECISION AND RESOLUTION (ANNEXES "A" AND "B"), THE HONORABLE COURT OF TAX APPEALS EN BANC, IN CLEAR DISREGARD OF THE BASIC RULES ON STATUTORY CONSTRUCTION, ERRONEOUSLY AND CAPRICIOUSLY INTERPRETED THE BANKING-INDUSTRYWIDE INNOVATIVE PRODUCT CALLED "SPECIAL SAVINGS DEPOSIT" AS A CERTIFICATE OF TIME DEPOSIT SUBJECT TO DOCUMENTARY STAMP TAX UNDER SECTION 180 OF THE THEN GOVERNING NATIONAL INTERNAL REVENUE CODE.

II

THE HONORABLE COURT OF TAX APPEALS EN BANC GRAVELY

ERRED IN NOT CONSIDERING THAT ITS ERRONEOUS INTERPRETATION OF THE "SPECIAL SAVINGS DEPOSIT" WAS ONLY RATIONALIZED AND EXPLICITLY PROVIDED FOR UNDER REPUBLIC ACT NO. 9243, OTHERWISE KNOWN AS "AN ACT RATIONALIZING THE PROVISIONS ON THE DOCUMENTARY STAMP TAX OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSE" WHICH WAS ENACTED INTO LAW ON FEBRUARY 7, 2004.^[31]

The petition is not meritorious.

The issue of whether or not Special Savings Deposits are subject to documentary stamp tax is not novel as the same has been the subject of this Court's ruling in *International Exchange Bank v. Commissioner of Internal Revenue*^[32] (*International*) and *Philippine Banking Corporation v. Commissioner of Internal Revenue*^[33] (*PBC*).

Section 180 of the 1997 National Internal Revenue Code, as amended, provides:

Sec. 180. Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, certificates of deposit bearing interest and others not payable on sight or demand. -- On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or **certificates of deposits drawing interest**, or orders for the payment of any sum of money otherwise than at the sight or on demand, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: provided, that only one documentary stamp tax shall be imposed on either loan agreement, or promissory note issued to secure such loan, whichever will yield a higher tax: provided, however, that loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this section.

The CTA *en banc* dissected Section 180 and enumerated the following documents which are subject to documentary stamp tax, to wit:

1. Loan Agreements;
2. Bills of Exchange;
3. Drafts;
4. Instruments and Securities issued by the Government or any of its instrumentalities;
- 5. Certificates of Deposit Drawing Interest;**
6. Order for the payment of money otherwise that at sight or on demand;
7. Promissory Notes, whether negotiable or non-negotiable.^[34]

From said enumeration, the CTA *en banc* held that petitioner's SSDs fall under the category of "certificates of deposit drawing interest."

In *Far East Bank and Trust Company v. Querimit*,^[35] the Court defined a certificate of deposit as "a written acknowledgment by a bank or banker of the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor, or to some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created." A certificate of deposit is also defined as "a receipt issued by a bank for an interest-bearing time deposit coming due at a specified future date."

In its Decision, the CTA *en banc* held that certificates of time deposit are subject to documentary stamp tax and that the same are but a type of a certificate of deposit drawing interest.^[36] Hence, whether or not SSDs are subject to documentary stamp tax is dependent on the nature and specific features thereof. It is thus conceded that if the SSDs are more akin to a time deposit account then the same would be subject to documentary stamp tax. However, if the SSDs are more akin to a regular savings deposit account then the same would not be subject to documentary stamp tax.

Petitioner argues that its SSDs have the same distinctive features of a regular savings deposit account. Particularly, petitioner asserts that its SSDs are not "certificates of deposits drawing interest" as held by the CTA *en banc*. Petitioner thus explains:

Firstly, the law, as it may in pertinence, be scrutinized, specifically mentioned "certificates of deposits drawing interest" as subject to the documentary stamp tax. In the special savings deposit of petitioner, what is issued to a depositor is a passbook just like in regular savings deposit. The reason for this is that, as appreciated by the Honorable Court *quo* itself --- the amount deposited in the special savings deposit is withdrawable any time. Partial or full withdrawal may be done by the depositor from this deposit. Not only this, the depositor may likewise deposit any amount he pleases anytime he wants. Hence, the fund in a special savings deposit is a continuing fund, just like regular savings account. The passbook then would be suitable and proper record of all the transactions made and to be made on the special savings deposit.

Certificates of deposit, on the other hand, are issued to evidence a time deposit

placement. Time deposits, to a tee, are certificates of indebtedness issued by a bank for fixed amounts which earn interest at fixed rates and payable at a fixed future date. These features do not attend foursquare on the special savings deposit. In the latter, just like in ordinary savings deposit, there is a minimum amount of deposit required, but it is never fixed or stipulated upon; the interest is assured at savings deposit rate but if the balance required is maintained for a certain period, the depositor is entitled to a prevailing market rate; and, special savings deposit has no maturity date and is a continuing concern. With the withdrawability of the amount deposited herein at any time, as the depositor may please, special savings deposit just like an ordinary savings account includes itself under the category of deposit payable at sight or on demand, read as "orders for the payment of any sum of money [otherwise] at sight or on demand" which is exempt from documentary stamp tax.^[37]

This Court does not agree. Contrary to the claim of petitioner, the SSDs are in fact "certificates of deposits drawing interest" subject to documentary stamp tax as provided for in Section 180 of the 1997 NIRC.

In *PBC*, this Court distinguished a regular savings account, a time deposit account and the Special/Super Savings Deposit Account (SSDA) in the following manner, to wit:

	Savings Account	Time Deposit	SSDA
Interest rate	Regular savings interest	Higher interest rate	Higher interest rate
Period	None	Fixed Term	Fixed Term
Evidenced by:	Passbook	Certificate of Time Deposit	Passbook
Pre-termination	None	With penalty	With penalty
Holding Period	None	Yes	Yes
Withdrawal	Allowed	Withdrawal amounts to pre- termination	Allowed provided the minimum amount to earn the higher interest rate is maintained, otherwise, the regular savings interest rate will apply.

Based on the foregoing comparison, the Court in *PBC* ruled that a "Special/Super Savings Deposit Account" has all the distinct features of a certificate of deposit, to wit:

Based on the definition and comparison, it is clear that a certificate of deposit drawing interest as used in Section 180 of the 1977 NIRC refers to a time deposit account. As the Bureau of Internal Revenue (BIR) explained in Revenue

Memorandum Circular No. 16-2003, the distinct features of a certificate of deposit from a technical point of view are as follows:

- a. Minimum deposit requirement;
- b. Stated maturity period;
- c. Interest rate is higher than the ordinary savings account;
- d. Not payable on sight or demand, but upon maturity or in case of pre-termination, prior notice is required; and
- e. Early withdrawal penalty in the form of partial loss or total loss of interest in case of pre-termination.

The SSDA is for depositors who maintain savings deposits with substantial average daily balance and which earn higher interest rates. The holding period of an SSDA floats at the option of the depositor at 30, 60, 90, 120 days or more and for maintaining a longer holding period, the depositor earns higher interest rates. There is no pre-termination of accounts in an SSDA because the account is simply reverted to an ordinary savings status in case of early or partial withdrawal or if the required holding period is not met. Based on the foregoing, the SSDA has all of the distinct features of a certificate of deposit.

In *International*, this Court held that a "Savings Account-Fixed Savings Deposit" is likewise subject to documentary stamp tax, to wit:

The FSD, like a time deposit, provides for a higher interest rate when the deposit is not withdrawn within the required fixed period; otherwise, it earns interest pertaining to a regular savings deposit. Having a fixed term and the reduction of interest rates in case of pre-termination are essential features of a time deposit. Thus, explains the CTA *En Banc*:

It is well-settled that certificates of time deposit are subject to the DST and that a certificate of time deposit is but a type of a certificate of deposit drawing interest. Thus, in resolving the issue before Us, it is necessary to determine whether petitioner's Savings Account-Fixed Savings Deposit (SA-FSD) has the same nature and characteristics as a time deposit. In this regard, the findings of fact stated in the assailed Decision [of the CTA Division] are as follows:

"In this case, a depositor of a savings deposit-FSD is required to keep the money with the bank for at least thirty (30) days in order to yield a higher interest rate. Otherwise, the deposit earns interest pertaining only to a regular savings deposit.

"The same feature is present in a time deposit. A depositor is allowed to withdraw his time deposit even before its maturity subject to bank

charges on its pre[-]termination and the depositor loses his entitlement to earn the interest rate corresponding to the time deposit. Instead, he earns interest pertaining only to a regular savings deposit. Thus, petitioner's argument that the savings deposit-FSD is withdrawable anytime as opposed to a time deposit which has a maturity date, is not tenable. In both cases, the deposit may be withdrawn anytime but the depositor gets to earn a lower rate of interest. The only difference lies on the evidence of deposit, a savings deposit-FSD is evidenced by a passbook, while a time deposit is evidenced by a certificate of time deposit."

In order for a depositor to earn the agreed higher interest rate in a SA-FSD, the amount of deposit must be maintained for a fixed period. Such being the case, *We agree with the finding that the SA-FSD is a deposit account with a fixed term. Withdrawal before the expiration of said fixed term results in the reduction of the interest rate. Having a fixed term and reduction of interest rate in case of pre-termination are essentially the features of a time deposit.* Hence, this Court concurs with the conclusion reached in the assailed Decision that petitioner's SA-FSD and time deposit are substantially the same. . . . (Italics in the original; underscoring supplied)

The findings and conclusions reached by the CTA which, by the very nature of its function, is dedicated exclusively to the consideration of tax problems and has necessarily developed an expertise on the subject, and unless there has been an abuse or improvident exercise of authority, and none has been shown in the present case, deserves respect.^[38]

In herein petition, petitioner's version of the special savings deposit is called the "Savings Plus Deposit Accounts." Said accounts have the following features as can be gathered from the petition:

1. Amount deposited is withdrawable anytime^[39]
2. The same is evidenced by a passbook^[40]
3. The rate of interest offered is the prevailing market rate, provided the depositor would maintain his minimum balance in thirty (30) days at the minimum, and should he withdraw before the period, his deposit would earn the regular savings deposit rate.^[41]

Based on the foregoing, the conclusion is certain in that petitioner's SSDs are "certificates of deposits drawing interest" as contemplated in Section 180 of the 1997 National Internal Revenue Code. Petitioner's "Savings Plus Deposit" is essentially the same as the "Savings Account-Fixed Savings Deposit" in *International*, as well as the "Special/Super Savings

Account" in *PBC* wherein this Court ruled that said accounts are subject to documentary stamp tax.

Petitioner, however, insists that its SSDs are evidenced by a passbook and thus it claims that the same should bolster its position that said accounts are more akin to a regular savings deposit account.

This Court does not agree. In *International*, this Court held that a passbook representing an interest-earning deposit account issued by a bank qualifies as a certificate of deposit drawing interest.^[42] A document to be deemed a certificate of deposit requires no specific form as long as there is some written memorandum that the bank accepted a deposit of a sum of money from a depositor. What is important and controlling is the nature or meaning conveyed by the passbook and not the particular label or nomenclature attached to it, inasmuch as substance, not form, is paramount.^[43]

Anent the second error raised, the same deserves scant consideration. Petitioner cites Republic Act (R.A.) No. 9243^[44] (approved on February 17, 2004), whereby Section 180 of the 1997 NIRC was amended, to *wit*:

SEC. 5. Section 180 of the National Internal Revenue Code of 1997, as amended, is hereby renumbered as Section 179 and further amended to read as follows:

SEC. 179. Stamp Tax on All Debt Instruments. - On every original issue of debt instruments, there shall be collected a documentary stamp tax of One peso (P1.00) on each Two hundred pesos (P200), or fractional part thereof, of the issue price of any such debt instruments: *Provided*, That for such debt instruments with terms of less than one (1) year, the documentary stamp tax to be collected shall be of a proportional amount in accordance with the ratio of its term in number of days to three hundred sixty-five (365) days: *Provided, further*, That only one documentary stamp tax shall be imposed on either loan agreement, or promissory notes issued to secure such loan.

For purposes of this section, the term debt instrument shall mean instruments representing borrowing and lending transactions including but not limited to debentures, certificates of indebtedness, due bills, bonds, loan agreements, including those signed abroad wherein the object of contract is located or used in the Philippines, instruments and securities issued by the government of any of its instrumentalities, deposit substitute debt instruments, certificates or other evidences of deposits that are either drawing interest significantly higher than the regular savings deposit taking into consideration the size of the deposit and the risks involved or drawing interest and having a specific maturity date, orders

for payment of any sum of money otherwise than at sight or on demand, promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation." (Underscoring supplied)

Petitioner asserts that the amendment of Section 180 of the National Internal Revenue Code of 1997 only shows ostensibly that the old Section 180 was not applicable to special savings deposit, which by then cannot be slapped with the imposition of documentary stamp tax.^[45] Simply put, at the time material to this case, when R.A. No. 9243 was yet to be enacted, petitioner contends there was no law that clearly subjected its special savings deposits to documentary stamp tax.^[46]

This Court does not agree. In *International*, the Court held that the further amendment was intended to eliminate the scheme used by banks of issuing passbooks to "cloak" its time deposits as regular savings deposits.^[47] More importantly, the Court held that the amendment to include "*other evidences of deposits that are drawing interest significantly higher than the regular savings deposit*" was merely intended to eliminate the ambiguity^[48] as reflected in the exchanges^[49] between Mr. Miguel Andaya of the Bankers Association of the Philippines and Senator Ralph Recto, Senate Chairman of the Committee on Ways and Means, during the deliberations on Senate Bill No. 2518 which eventually became R.A. No. 9243. Contrary therefore to petitioner's position, *International* is categorical in that the said amendment did not signify that time deposits evidenced by a passbook were exempt from documentary stamp tax under Section 180 of the 1997 NIRC,^[50] but that it merely served to eliminate the ambiguity in the law.

WHEREFORE, the petition is **DENIED**. The January 3, 2006 Decision and March 20, 2006 Resolution of the Court of Tax Appeals *En Banc* in C.T.A. EB No. 66 (C.T.A Case No. 6400) are hereby **AFFIRMED**.

SO ORDERED.

*Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Leonardo-De Castro**,
JJ., concur.

* Designated as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Raffle dated September 28, 2009.

^[1] *Rollo*, pp. 36-62.

^[2] Penned by Associate Justice Juanito C. Castaneda, Jr., with Presiding Justice Ernesto D. Acosta and Associate Justices Lovell R. Bautista, Erlinda P. Uy and Olga Palanca-

Enriquez, concurring; Caesar A. Casanova, concurring and dissenting; *id.* at 7-23.

[3] *Rollo*, pp. 86-87.

[4] *Id.* at 40.

[5] *Id.* at 134; with Annexes, *id.* at 135-140.

[6] *Id.* at 141.

[7] *Id.* at 143.

[8] *Id.* at 145.

[9] *Id.* at 147-150.

[10] *Id.* at 149-150.

[11] *Id.* at 151-152.

[12] *Id.* at 153.

[13] *Id.* at 154-155.

[14] *Id.* at 160-163.

[15] *Id.* at 164.

[16] *Id.* at 165-171.

[17] *Id.* at 172-183.

[18] *Id.* at 182-183.

[19] *Id.* at 184-193.

[20] *Id.* at 204-222.

[21] *Id.* at 220-221.

[22] *Id.* at 223-230.

[23] *Id.* at 238-241.

[24] *Id.* at 242-256.

[25] *Id.* at 65-81.

[26] *Id.* at 80.

[27] Sec. 180. ***Stamp tax on all loan agreements, promissory notes, bills of exchange, drafts, instruments and securities issued by the government or any of its instrumentalities, certificates of deposit bearing interest and others not payable on sight or demand.*** -- On all loan agreements signed abroad wherein the object of the contract is located or used in the Philippines; bills of exchange (between points within the Philippines), drafts, instruments and securities issued by the Government or any of its instrumentalities or **certificates of deposits drawing interest**, or orders for the payment of any sum of money otherwise than at the sight or on demand, or on all promissory notes, whether negotiable or non-negotiable, except bank notes issued for circulation, and on each renewal of any such note, there shall be collected a documentary stamp tax of Thirty centavos (P0.30) on each Two hundred pesos, or fractional part thereof, of the face value of any such agreement, bill of exchange, draft, certificate of deposit, or note: *Provided*, that only one documentary stamp tax shall be imposed on either loan agreement, or promissory note issued to secure such loan, whichever will yield a higher tax: *Provided*, however, that loan agreements or promissory notes the aggregate of which does not exceed Two hundred fifty thousand pesos (P250,000) executed by an individual for his purchase on installment for his personal use or that of his family and not for business, resale, barter or hire of a house, lot, motor vehicle, appliance or furniture shall be exempt from the payment of the documentary stamp tax provided under this Section.

[28] *Rollo*, p. 75.

[29] *Id.* at 92-101.

[30] *Id.* at 86-87.

[31] *Id.* at 45-46.

[32] G.R. No. 171266, April 4, 2007, 520 SCRA 688.

[33] G.R. No. 170574, January 30, 2009.

[34] *Rollo*, p. 76.

[35] 424 Phil 721, 730 (2002).

[36] *Rollo*, p. 77.

[37] *Id.* at 51-52.

[38] *Supra* note 32, at 698-700.

[39] *Rollo*, p. 48.

[40] *Id.*

[41] *Id.* at 49.

[42] *Supra* note 32, at 697.

[43] *Id.*

[44] AN ACT RATIONALIZING THE PROVISIONS OF THE DOCUMENTARY STAMP TAX OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

[45] *Rollo*, p. 56.

[46] *Id.*

[47] *Supra* note 32, at 701.

[48] *Id.*

[49] MR. MIGUEL ANDAYA (Bankers Association of the Philippines). Just to clarify. Savings deposit at the present time is not subject to DST.

THE CHAIRMAN. That's right.

MR. ANDAYA. Time deposit is subject. I agree with you in principle that if we are going to encourage deposits, whether savings or time...

THE CHAIRMAN. Uh-huh.

MR. ANDAYA. . .it's questionable whether we should tax it with DST at all, even the question of imposing final withholding tax has been raised as an issue.

THE CHAIRMAN. If I had it my way, I'll cut it by half.

MR. ANDAYA. Yeah, but I guess concerning the constraint of government revenue, even the industry itself right now is not pushing in that direction, but in the long term, when most of us in this room are gone, we hope that DST will disappear from the face of this earth, `no.

Now, I think the move of the DOF to expand the coverage of or to add that phrase, "Other evidence of indebtedness," it just removed ambiguity. When we testified earlier in the House on this very same bull, we did not interpose any objections if only for the sake of avoiding further ambiguity in the implementation of DST on deposits. Because of what has happened so far is, we don't know whether the examiner is gonna come in and say, "This savings deposit is not savings but it's time deposit." So, I think what DOF has done is to eliminate any confusion. They said that a deposit that has a maturity. . .

THE CHAIRMAN. Uh-huh.

MR. ANDAYA. . . . which is time, in effect, regardless of what form it takes should be subject to DST.

THE CHAIRMAN. Would that include savings deposit now?

MR. ANDAYA. So that if we cloaked a deposit as savings deposit but it has got a fixed maturity . . .

THE CHAIRMAN. Uh-huh.

MR. ANDAYA. . . that would fall under the purview. (Underscoring supplied; Transcript of Stenographic Notes, Deliberations of the Senate Committee on Ways and Means, August 14, 2002. pp. 2-3.)

[50] *International Exchange Bank v. CIR, supra* note 32, at 701.