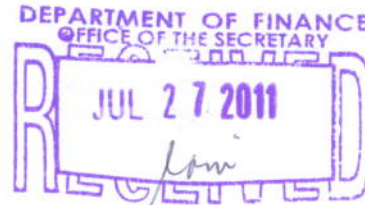




Board Of Airline Representatives

27 July 2011

HON. CESAR PURISIMA
Secretary
Department of Finance
Pasay City



Re: *Urgent Request for Suspension of the Implementation of Revenue Regulation No. 11-2011*

Dear Secretary Purisima,

Last July 22, 2011, the Bureau of Internal Revenue ("BIR") published Revenue Regulation ("RR") No. 11-2011 on the Common Carriers Tax ("CCT"), amending Section 10 of RR No. 15-2002. The new RR changes the tax base for the CCT computations from average fares to actual direct billings and expands the coverage of gross revenues to include rentals, penalties, deposits applied as payments, advance payments, and other service charges and fees actually or constructively received during the taxable quarter.

The Board of Airline Representatives ("BAR") interposes its strong objection to the amendments introduced by RR No. 11-2011. This is however without prejudice to BAR's primary position that international air carriers in general have the option to be covered by Value Added Tax in lieu of CCT in view of the amendments introduced by Republic Act. No. 9337.

We understand that the intent of the Department of Finance is to relieve foreign air carriers of the CCT burden by allowing foreign air carriers to effectively pass on the tax to the passengers. However, please do allow us to raise that our issue is the discriminatory tax regime – that Philippine air carriers are not subject to the same tax regime in international routes where they operate and compete with foreign air carriers and not the administrative procedure that prevents foreign air carriers from directly billing our customers, as cited by Commissioner Kim Jacinto-Henares in press reports.

In our letter dated 6 June 2011 to Senator Ralph Recto and Congressman Hermilando Mandanas (Attachment 1) and copy furnished to Commissioner Henares, in response to the proceedings of the 2 June oversight committee hearing, we raised our strong opposition to the move by the BIR to address our plight by simply changing the tax base for the following reasons:

1. Our issue is the lack of level playing field (and not our inability to pass the indirect tax burden to the passengers) in international operations where we compete with Philippine carriers. This issue will not be addressed by RR No. 11-2011.
2. When these taxes are passed on to the passengers, they will increase fares and make foreign air carriers very uncompetitive relative to the Philippine carriers in the international routes where they compete. This will not support the Aquino administration's goal of attracting 6.6M tourists by 2016. Tickets purchased by passengers buying international

tickets from Philippine carriers are VAT zero-rated whereas those purchased from foreign air carriers will now be charged with 3% CCT. This new practice will only heighten the discrimination in tax treatment.

3. The administrative measure will only make the tax computations more complicated and burdensome given the range of itineraries, the various places of issuance of tickets, the complexity of airline pricing and the differences in purchase prices by country, distribution channel and individual distributor within any given channel. For example: How will distributors' margins overseas be accounted for in the computations?
4. The percentage tax is computed based on the one way allocated airfare of the portion of the ticket originating in the Philippines. Each industry player would have its own distinct proprietary methodology to determine segment or combinations of segment values; the issue is complex.
5. Deposits or advance payments should not be subjected to CCT as these are either returns to customer/agents or applied to tickets as partial/full payment for airfare and other charges/taxes, if any. In the case of the latter, even taxes due to the Philippines/other countries will be subjected to CCT, including the cost of ticket where the partial/full payment was applied resulting to double taxation. In order to avoid this kind of double taxation, airlines will have to spend additional resources on the unnecessary administrative work.
6. Given the revised definition of "gross receipts" under RR No. 11-2011, there will be double taxation of revenue from tickets sold outside the Philippines.

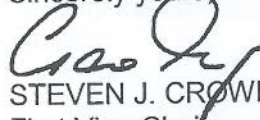
Our Appeal

BAR appeals to the Secretary of Finance to suspend the implementation of RR No. 11-2011 and to grant BAR an opportunity to present its position paper in an audience with the Secretary.

The foreign air carriers are willing to partner with the Aquino administration in enhancing international connectivity for the benefit of tourism, trade and the goal of job creation in the Philippines, especially now that air carriers are expanding their fleets for deployment to various growing and emerging destinations in the Asia-Pacific region. An enabling business environment will truly make it easier for air carriers to choose the Philippines over other destinations and take advantage of the very liberal air policy of the Aquino administration.

Thank you for your attention.

Sincerely yours,


STEVEN J. CROWDEY
First Vice-Chair

Attachment

cc: Senator Ralph Recto, Chair, House Oversight Committee
Congressman Hermilando I. Mandanas, Chair, House Oversight Committee
Commissioner Kim Jacinto-Henares, BIR
Members of the Economic Development Cluster
Joint Foreign Chambers