The BIR has issued Revenue Regulation (RR) 13-2011:


RR No. 13-2011 clarifies and details the tax incentives generally stated under RA No. 9856, and has the following salient points:

a. Requires that the Real Estate Investment Trust (REIT) register once with the Large Taxpayers Audit Division (LTRAD) according to Chapter II of Title IX of the National Internal Revenue Code of 1997, as amended (Tax Code).

b. States that all real properties owned by a REIT are considered as ordinary assets.

c. Specifies the reduced rates (50% reduction) of Documentary Stamp Taxes (DST) on transactions executed by REITs, and the requirements to be submitted to the Revenue District Offices (RDOs) to avail of the reduced DST rates (inclusive of the deposit of the 50% difference in DST in an escrow account, for certain cases).

d. Provides that the imposition of the Value-Added Tax (VAT) on the transfer of real properties to a REIT shall be dependent on whether or not the real properties are classified as capital or ordinary assets.

e. Provides the formula for computing the Income Tax due of a REIT.

f. States the escrow requirements for the Income Tax which would have been collected on the dividends declared and deducted from the REIT’s deductible income.

g. Specifies the national internal revenue taxes to which a REIT is subject to.

h. Provides for the rules on the recovery by the government of the 50% difference in DST and the Income Tax (on dividends) in the event that the REIT fails to qualify for the said incentives. This includes a statement that the recovery of the DST shall become immediately due and demandable, without the need for the issuance of an assessment.

i. Provides that a REIT availing of the incentives under RA No. 9856 shall not be entitled to other incentives for the same types of taxes under special laws.

Given that this regulation was published in the Manila Bulletin on 27 July 2011, it will become effective on 11 August 2011.