

MEMORANDUM CIRCULAR NO. 201
Series of 2004

**TO : ALL PHILIPPINE OVERSEAS SHIPPING COMPANIES
AND OTHER MARITIME ENTITIES CONCERNED**

**SUBJECT : RULES AND REGULATIONS TO IMPLEMENT REPUBLIC
ACT NO. 9301 "AN ACT AMENDING CERTAIN
PROVISIONS OF REPUBLIC ACT NO. 7471, ENTITLED
'AN ACT TO PROMOTE THE DEVELOPMENT OF
PHILIPPINE OVERSEAS SHIPPING AND FOR OTHER
PURPOSES"**

Pursuant to the provisions of Presidential Decree No. 474, Executive Order No. 125, as amended and Section 10 of Republic Act (R.A.) No. 7471, the following rules and regulations to implement the amendatory provisions of Republic Act No. 9301 are hereby promulgated by the Maritime Industry Board during its Meeting on 12 November 2004.

I. OBJECTIVES:

- a. To expand the definition of "Philippine overseas shipping" to cover any kind of shipping operations by a Philippine shipping enterprise in the overseas trade;
- b. To extend the fiscal incentives to Philippine shipping enterprises for the next ten (10) years; and,
- c. To create a healthy investment climate within the industry to attract and encourage the establishment of private enterprises.

II. COVERAGE:

This Memorandum Circular shall apply to all Philippine shipping enterprises which are operating or intending to operate Philippine-registered ships in the overseas trade that shall avail themselves of the incentives under R. A. No. 9301.

III. DEFINITION:

As used in Republic Act No. 9301 and these Rules and Regulations, the following terms are hereby defined, as follows:

- a. R. A. No. 9301 refers to the Act amending certain provisions of R. A. No. 7471; and,
- b. Philippine overseas shipping means the operation of a Philippine

shipping enterprise in the overseas trade of any type of Philippine registered ship for any kind of shipping operation, which shall include, but shall not be limited to the transport of goods and/or passengers, and the purchase of ships for operation and the sale of ships after operation, except when the ship is operated solely between ports in the Philippines.

IV. EXEMPTION FROM INCOME TAX:

1. A Philippine shipping enterprise accredited under Memorandum Circular No. 181 and its amendments shall be exempt from payment of income tax on income derived from Philippine overseas shipping for a period of ten (10) years from the date of approval of R. A. No. 9301 or up to 27 July 2014: *Provided, That:*
 - 1.1. The entire net income, after deducting not more than fifteen (15%) percent thereof for distribution of profits or declaration of dividends, which would otherwise be taxable under the provisions of Title II of the National Internal Revenue Code, is reinvested for the construction, purchase, or acquisition of ships and related equipment and/or in the improvement or modernization of its ships and related equipment in accordance with the regulations;
 - 1.2. The cumulative amount so reinvested shall not be withdrawn for a period of seven (7) years after the expiration of the period of income tax exemption or until the ship or related equipment so acquired have been fully paid, which ever date comes earlier; and,
 - 1.3. Any amount not so invested or withdrawn prior to the expiration of the period stipulated herein shall be subject to the corresponding income tax, including penalties, surcharges and interests.
2. The Philippine shipping enterprise shall secure an endorsement from the MARINA for the issuance of a Certificate of Income Tax Exemption from the Bureau of Internal Revenue.
3. The Philippine shipping enterprise must submit to the MARINA a copy of the Income Tax Return and the Annual Audited Financial Statements not later than thirty (30) days from receipt thereof by the Bureau of Internal Revenue starting year 2005.

V. PENAL PROVISIONS:

The following penal provisions are hereby prescribed:

- a. Violation of the provisions of R. A. Nos. 7471 and 9301 and their applicable rules and regulations shall be punishable by a fine of not

more than One Hundred Thousand Pesos (P100,000.00) or imprisonment of not more than five (5) years or both such fines and imprisonment at the discretion of the court.

- b. If the violation is committed by an association or corporation, the penalties prescribed hereunder shall be imposed on the President, the Chief Executive Officer and the other officials and employees responsible for the violation.
- c. If the violation is committed by a government official or employee, he/she shall, in addition to the penalties prescribed hereunder, be dismissed from the government service with all the administrative penalties accessory thereto.

VI. REPEALING CLAUSE:

Pursuant to Section 4 of R. A. No. 9301, all laws, decrees, executive orders, circulars, rules and regulations and provisions of R. A. No. 7471 inconsistent with the Act as implemented by these Rules and Regulations are hereby repealed, amended or modified accordingly.

VII. EFFECTIVITY:

These Rules and Regulations shall take effect fifteen (15) days after its publication once in a newspaper of general circulation.

12 November 2004 at Manila, Philippines.

BY AUTHORITY OF THE BOARD:

(Sgd.) VICENTE T. SUAZO, JR.
Administrator

SECRETARY'S CERTIFICATE

This is to certify that Memorandum Circular No. **201** has been approved by the MARINA Board on its **169th** Board Meeting held on **12 November 2004**.

(Sgd.) ATTY. GLORIA J. VICTORIA-BAÑAS
Corporate Board Secretary

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