

TAX ALERT

August 2020

COURT OF TAX APPEALS DECISIONS

CAPITAL GAINS TAX (“CGT”) PAID PURSUANT TO A CONTRACT TO SELL WHICH WAS SUBSEQUENTLY RESCINDED CAN NOT BE REFUNDED AS THERE WAS NO ERRONEOUS OR ILLEGAL COLLECTION OF TAXES AT THE TIME OF PAYMENT. *Euroversal Properties, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9869 dated August 3, 2020.*

AMOUNT PAID FOR COMPROMISE SETTLEMENT OF DEFICIENCY TAXES BASED ON AN INVALID ASSESSMENT MUST BE REFUNDED AS THE SAME CONSTITUTES UNJUST ENRICHMENT ON THE PART OF THE GOVERNMENT. *ED & F MAN Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9577 & 9738 dated August 5, 2020.*

A FINAL ASSESSMENT NOTICE (“FAN”) ISSUED TO AND RECEIVED BY THE TAXPAYER BEFORE THE LAPSE OF THE 15-DAY PERIOD TO RESPOND TO THE PRELIMINARY ASSESSMENT NOTICE (“PAN”) RENDERS THE SAME NULL AND VOID. *Integrated Solutions Technology Limited v. Commissioner of Internal Revenue, CTA Case No. 9608 dated August 26, 2020; Jollibee Worldwide Pte. Ltd. v. Commissioner of Internal Revenue, CTA Case No. 9005 dated August 26, 2020.*

ONLY THE COMMISSIONER OF INTERNAL REVENUE OR HIS DULY AUTHORIZED REPRESENTATIVES CAN AUTHORIZE THE AUDIT AND EXAMINATION OF TAXPAYERS FOR PURPOSES OF ASSESSMENT OF ANY DEFICIENCY TAXES. A REVENUE DISTRICT OFFICER DOES NOT HAVE SUCH POWER. *Republic of the Philippines vs. Robiegie Corporation, CTA OC. No. 023 dated August 26, 2020.*

THE LIABILITIES OF A WITHHOLDING AGENT INVOLVE BOTH THE WITHHOLDING OF THE TAX AND THE REMITTANCE THEREOF. THUS, THE EXCEPTION TO TAX AMNESTY UNDER SECTION 8(A) OF REPUBLIC ACT NO. 9480 COVERS BOTH FAILURE TO WITHHOLD AND FAILURE TO REMIT TAXES WITHHELD. *Morning Star Milling Corporation v. Commissioner of Internal Revenue, CTA Case No. 9294 dated August 26, 2020.*

BIR ISSUANCES

BIR AMENDS AND/OR CLARIFIES THE DEFINITION OF FAIR MARKET VALUE OF SHARES OF STOCK NOT TRADED THROUGH A LOCAL STOCK EXCHANGE IN CASE OF SALE, BARTER OR EXCHANGE THEREOF. The latest audited financial

statements shall be sufficient in determining the fair market value of the shares of stock subject of the sale, barter, exchange or other disposition. The book value need not be adjusted to include any appraisal surplus from any property of the corporation not reflected or included in the latest audited financial statements. ***Revenue Regulations No. 20-2020 dated August 17, 2020.***

BIR ADDRESSES INTERNATIONAL TAX ISSUES AND CONCERNS RELATED TO CROSS BORDER WORKERS OR INDIVIDUALS AND THE UNINTENDED CREATION OF PERMANENT ESTABLISHMENT IN VIEW OF THE IMPLEMENTATION OF VARIOUS COVID-19 MEASURES INCLUDING TRAVEL RESTRICTIONS. *Revenue Memorandum Circular No. 83-2020 dated August 17, 2020.*

Note: The information provided herein is general and may not be applicable in all situations. It should not be acted upon without specific legal advice based on particular situations. If you have any questions, please feel free to contact any of the following at telephone number (632) 8633-9418, facsimile number (632) 8633-1911, or at the indicated e-mail address:

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