

TAX ALERT

May 16, 2019 to June 15, 2019

SUPREME COURT DECISION

COURT OF TAX APPEALS (CTA) ALLOWS THE FILING OF AN APPEAL OUTSIDE THE PERIOD PRESCRIBED BY LAW FOR STRONG COMPELLING REASON SUCH AS ISSUANCE OF AMENDED ASSESSMENT NOTICE. After receipt of the Formal Assessment Notice (“FAN”), the taxpayer paid the undisputed assessment and administratively protested the FAN. Subsequently, however, the Commissioner of Internal Revenue (CIR) informed the taxpayer of additional deficiency taxes due and, hence, issued an Amended Assessment Notice reflecting the amended deficiency tax. However, together with the Amended Assessment Notice, the CIR issued a Final Decision on Disputed Assessment. Apparently, the Amended Assessment Notice indicated that the taxpayer may file the protest in writing to the CIR or the Regional Director within 30 days from receipt. Thus, instead of appealing to the CTA upon receipt of the FDDA, the taxpayer filed a protest to the Amended Assessment Notice to the Regional Director. After having been informed by the Regional Director that the protest was supposedly an improper remedy, taxpayer filed a Petition with the CTA. While the rule is that a taxpayer has 30 days to appeal to the CTA from the final decision of the CIR, the said rule could not be applied if the Amended Assessment Notice itself clearly states that the taxpayer must file a protest with the CIR or the Regional Director within 30 days from receipt of the Amended Assessment Notice. Moreover, in view of the issuance of the Amended Assessment Notice, technically speaking, there was yet no final decision that was issued by the CIR appealable to the CTA. *Misnet, Inc. vs. Commissioner of Internal Revenue, G.R. No. 210604 dated June 3, 2019*

COURT OF TAX APPEALS DECISIONS

GOOD FAITH AND HONEST BELIEF THAT ONE IS NOT SUBJECT TO TAX ON THE BASIS OF PREVIOUS INTERPRETATION OF GOVERNMENT AGENCIES TASKED TO IMPLEMENT THE TAX LAWS ARE SUFFICIENT JUSTIFICATION TO DELETE THE IMPOSITION OF SURCHARGES AND INTEREST. *E. E. Black Ltd.-Philippine Branch vs. The Commissioner of Internal Revenue, CTA EB Case No. 1611 (CTA Case No. 8719) dated May 20, 2019*

ASSESSMENT ISSUED BASED ON PRESUMPTION ARISING FROM UNVERIFIED THIRD-PARTY INFORMATION IS NOT SUFFICIENT TO ESTABLISH ACTUAL FRAUD TO WARRANT THE APPLICATION OF THE TEN-YEAR PRESCRIPTIVE PERIOD. *Commissioner of Internal Revenue vs. Admorlina L. Fontejon, CTA EB Case No. 1813 (CTA Case No. 9314) dated May 28, 2019*

THE AMOUNT OF REFUND DENIED DUE TO FAILURE TO STRICTLY COMPLY WITH THE INVOICING REQUIREMENTS MAY BE CLAIMED AS A DEDUCTIBLE LOSS. *Commissioner of Internal Revenue vs. Maersk Global Service Centres (Philippines) Ltd. CTA EB Case No. 1786 (CTA Case No. 8934) dated June 13, 2019*

CTA MAY SUSPEND COLLECTION OF TAXES WHEN TAXPAYER'S ASSETS ARE NOT SUFFICIENT TO COVER THE ASSESSED DEFICIENCY TAXES AS SUCH COLLECTION WILL JEOPARDIZE TAXPAYER'S BUSINESS. *Catherine T. Loh/Arysta Marketing v. Bureau of Internal Revenue CTA Case No. 9934 dated May 16, 2019*

INCOME FROM PAGCOR-LICENCED JUNKET OPERATIONS ARE SUBJECT TO ORDINARY CORPORATE INCOME TAX. Citing Revenue Memorandum Circular No. 33-2013, the CTA classified junket operations as "other related operations" under Presidential Decree No. 1869 and held that income from junket operations is subject to the ordinary corporate income tax as it is not eligible to the 5% franchise tax. *Prime Investment Korea, Inc. vs. Commissioner of Internal Revenue, CTA Case No. 9573 dated May 31, 2019*

INTEREST AND YIELD GENERATED FROM ASSET-BACKED SECURITIES UNDER REPUBLIC ACT NO. 9627, OTHERWISE KNOWN AS THE SECURITIZATION ACT OF 2004, AND GURANTEED BY THE HOME GUARANTY CORPORATION ARE EXEMPT FROM INCOME TAX AND CONSEQUENTLY FROM FINAL WITHHOLDING TAX. *Bahay Bonds 2 Special Purpose Trust administered by Land Bank of the Philippines through its Trust Banking Group vs. Commissioner of Internal Revenue, CTA Case No. 9444 dated June 11, 2019*

BIR RULINGS AND ISSUANCES

DEED OF EXCHANGE EXECUTED TO CORRECT MISTAKE MADE IN A SUBDIVISION PLAN IS SUBJECT TO CAPITAL GAINS TAX AND DOCUMENTARY STAMP TAX. *BIR Ruling No. 284-2019 dated May 15, 2019*

IMPLEMENTING THE PROVISIONS OF ESTATE TAX AMNESTY UNDER TITLE II OF REPUBLIC ACT NO. 11213, OTHERWISE KNOWN AS THE "TAX AMNESTY ACT". Providing guidelines to settle estate tax obligations covering estate of decedents who died on or before December 31, 2017. Estate tax amnesty may be availed within two years from the effectivity of this Revenue Regulations. *Revenue Regulations No. 6-2019 dated May 29, 2019*

AMENDING SECTION 2 OF REVENUE REGULATIONS 11-2018 SPECIFICALLY ON THE REQUIREMENTS FOR TOP WITHHOLDING AGENTS. Top withholding agents refer to "taxpayers whose gross sales/receipts or gross purchases or claimed deductible itemized expenses, as the case may be, amounted to TWELVE MILLION PESOS (P12,000,000.00) during the preceding taxable year." *Revenue Regulations No. 7-2019 dated May 7, 2019*

CLARIFICATION ON THE MEANING OF "BUSINESS STYLE" BEING REQUIRED IN OFFICIAL RECEIPTS AND INVOICES. Business Style refers to the business name registered

with the concerned regulatory body used by the taxpayer other than its registered name or company name. *Revenue Memorandum Circular No. 55-2019 dated May 21, 2019*

CLARIFIES CERTAIN ISSUES ON TAX AMNESTY ON DELINQUENCIES UNDER REVENUE REGULATIONS NO. 4-2019 WHICH IMPLEMENTED TITLE IV OF REPUBLIC ACT NO. 11213 OR THE TAX AMNESTY ACT. *Revenue Memorandum Circular No. 57-2019 dated May 22, 2019*

POLICIES AND PROCEDURES TO IMPLEMENT THE NINETY (90)-DAY PERIOD TO PROCESS AND GRANT CLAIMS FOR VALUE-ADDED TAX REFUND /CREDIT PURSUANT TO SECTION 112 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED. *Revenue Memorandum Order No. 25-2019 dated May 15, 2019*

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) 633-1911, or at the indicated e-mail address:

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