BANIQUED & BELLO
ATTORNEYS-AT-LAW

TAX ALERT

May 1 to 31, 2022

COURT OF TAX APPEALS DECISIONS

A PRELIMINARY COLLECTION LETTER ("PCL") ISSUED BY A REPRESENTATIVE OF THE COMMISSIONER OF INTERNAL REVENUE QUALIFIES AS A FINAL DECISION APPEALABLE TO THE COURT. On February 19, 2018, petitioner received a Final Decision on Disputed Assessment ("FDDA") signed by the OIC-Regional Director. Petitioner opted to file a Request for Reconsideration against the FDDA with the Office of the Commissioner of Internal Revenue ("CIR") on March 21, 2018. In response to said Request for Reconsideration, the CIR, acting through his duly authorized representative, the Chief of Collection Division of BIR, issued a PCL which was received by the taxpayer on May 31, 2018. The taxpayer then wrote a letter in response to the PCL on June 6, 2018, and, on June 19, 2018, received a Final Notice Before Seizure ("FNBS") from the CIR. The taxpayer filed the petition for review on July 2, 2018. Treating the PCL as the appealable decision (which the taxpayer received on May 31, 2018), the Court of Tax Appeals held that the taxpayer had until June 30, 2018, within which to appeal to the Court. The Petition for Review filed on July 2, 2018 is still within the 30-day appeal period as June 30, 2018 fell on a Saturday. ***Steel Corp. of the Phil. v. Commissioner of Internal Revenue, CTA Case No. 9866 dated May 17, 2022.***

THE CTA IS NOT PRECLUDED FROM CONSIDERING EVIDENCE THAT WAS NOT PRESENTED IN THE ADMINISTRATIVE CLAIM FOR REFUND WITH THE BIR. The CTA shall be a court of record and as such it is required to conduct a formal trial (trial *de novo)* where the parties must present their evidence accordingly if they desire the Court to take such evidence into consideration. As such, petitioner's failure to submit documents in the administrative level is not fatal to its case filed and pending in the judicial level since the said case is litigated *de novo* and decided based on what has been presented and formally offered by the parties during trial. ***Orica Phil., Inc. v. Commissioner of Internal Revenue, CTA Case No. 9974 dated May 24, 2022.***

THE CTA MAY RULE UPON ISSUES NOT STIPULATED BY THE PARTIES PURSUANT TO SECTION 1, RULE 14 OF THE REVISED RULES OF THE CTA. On the basis thereof, the CTA is not limited to the issues raised by the parties and may rule upon related issues necessary to achieve an orderly disposition of the case. This was confirmed and recognized in the case of *Commissioner of Internal Revenue v. Lancaster Phil., Inc. (G.R. No. 183408 dated July 12, 2017).* ***Pepsi-Cola Products Phil., Inc. v. Commissioner of Internal Revenue, CTA Case No. 9170 dated May 6, 2022.***

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SINCE CASES FILED WITH THE CTA ARE LITIGATED *DE NOVO*, PETITIONER SHOULD PROVE EVERY MINUTE ASPECT OF ITS CASE BY PRESENTING, FORMALLY OFFERING, AND SUBMITTING TO THE COURT ALL EVIDENCE REQUIRED FOR THE SUCCESSFUL PROSECUTION OF THE CASE. Notably, petitioner did not treat the proceedings before the Court as one *de novo*, since petitioner did not present, formally offer, and submit evidence to establish the requisites to successfully obtain a credit/refund of input VAT. Petitioner failed to prove that it has complied with the invoicing requirements under the National Internal Revenue Code of 1997 ("1997 NIRC") and other appropriate regulations. ***Pilipinas Kyohritsu, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9991 dated May 16, 2022.***

THE FILING OF THE JUDICIAL CLAIM WITHIN THE 30-DAY PERIOD AFTER THE EXPIRATION OF THE 90-DAY (PREVIOUSLY 120-DAY) PERIOD IS BOTH MANDATORY AND JURISDICTIONAL. Hence, failure to file the claim within the stated period renders the claim outside the jurisdiction of the CTA and, therefore, dismissible, as discussed in the case of *Silicon Phil., Inc. v. Commissioner of Internal Revenue (G.R. No. 182737 dated March 2, 2016).* ***Mitsuba Phil. Technical Center Corp. v. Commissioner of Internal Revenue, CTA Case No. 10025 dated May 19, 2022.***

THE TWO-YEAR PRESCRIPTIVE PERIOD IN SECTION 229 OF THE 1997 NIRC SHOULD BE COMPUTED FROM THE TIME OF FILING THE ADJUSTMENT RETURN OR ANNUAL INCOME TAX RETURN AND FINAL PAYMENT OF INCOME TAX. This is so because at that point, it can already be determined whether there has been an overpayment by the taxpayer. Quarterly tax payments are "mere advance payments of the annual corporate income tax." ***Premium Leisure and Amusement, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10060 dated May 26,2022.***

IN ORDER FOR THE 10-YEAR PERIOD TO ASSESS TO APPLY, THE RETURN MUST BE SHOWN TO BE FALSE OR FRAUDULENT. FOR A RETURN TO BE CONSIDERED AS FALSE OR FRAUDULENT, THERE MUST BE AN INTENT TO EVADE THE TAXES DUE. Herein, the respondent resented no evidence to prove fraud or intentional falsity or that petitioner filed the return with the intent to evade the taxes due. For that reason, the said return does not constitute as a false return. ***Megaconstruct Group, Inc. v. Bureau of Internal Revenue, CTA Case No. 9992 dated May 17, 2022.***

A PETITION FOR REVIEW MAY ASSAIL TWO FINAL DECISIONS ON DISPUTED ASSESSMENT (FDDA). In this case, the parties admitted in their Joint Stipulation of Facts and Issues that petitioner received from respondent two FDDAs. Respondent contends that the Petition for Review filed by petitioner is invalid for assailing two FDDAs, which is an erroneous application of the CTA's jurisdiction over decisions of respondent. The Court does not agree. Based on Section 7(a)(1) of Republic Act No. 1125 and Section (3)(a)(1), Rule 4 of the Revised Rules of the CTA, the CTA shall exercise jurisdiction over decisions of the CIR on disputed assessments. Also, although two FDDAs are assailed, the relation between the two FDDAs are readily apparent. These FDDAs pertain to petitioner's alleged deficiency taxes; are of the same nature and present a common question of fact or law that would warrant their joinder. Assailing both FDDAs in the instant petition does not run counter to the rules on joinder of causes of action.

Pepsi-Cola Products Phil., Inc. v. Commissioner of Internal Revenue, CTA Case No. 9170 dated May 6, 2022.

JURISDICTION DEPENDING ON THE TYPE OF PARTIES INVOLVED. As regards private entities and the BIR, the decision of petitioner is subject to the exclusive appellate jurisdiction of the CTA, in accordance with Section 4 of the 1997 NIRC. Where the disputing parties are all public entities, the case shall be governed by P.D. No. 242 (which is now embodied in Chapter 14, Book IV of the Administrative Code of 1987}, where the dispute shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved. In this case, it is undisputed that both of the parties involved are public entities, as the dispute is between the Department of Energy and the Bureau of Internal Revenue, both of which are government entities. Considering that both parties are public entities under the Executive Branch of the government, the instant case should be governed by P.D. No. 242 (which is now embodied in Chapter 14, Book IV of the Administrative Code of 1987) and not by the 1997 NIRC. Accordingly, jurisdiction over the case vests with the SOJ, and not with the Court in Division. ***Dep't of Energy v. Commissioner of Internal Revenue, CTA EB No. 2241 (CTA Case No. 10198) dated May 24, 2022.***

THE RULE IS THAT FOR THE CTA TO ACQUIRE JURISDICTION, AN ASSESSMENT MUST FIRST BE DISPUTED BY THE TAXPAYER AND RULED UPON BY THE CIR TO WARRANT A DECISION FROM WHICH A PETITION FOR REVIEW MAY BE TAKEN TO THE COURT. In the present case, it was never disputed and, in fact, the taxpayer readily admitted in its Petition for Review that when it received the Formal Letter of Demand ("FLD") on July 1, 2011, it did not file any protest thereto. Consequently, the deficiency tax assessments against the taxpayer had long attained finality and cannot be questioned on appeal. The taxpayer could have filed a request for reconsideration or reinvestigation against the FLD within the 30-day period set by law but it failed to do so. As a result, the taxpayer was unable to dispute the assessment upon which the CIR could have rendered a final decision (or the CIR's inaction over which is) appealable to the CTA. The taxpayer's failure to comply with the 30-day statutory period barred the appeal and deprived the CTA of its jurisdiction to entertain and determine the correctness and/or validity of the assessment. ***Commissioner of Internal Revenue v. New Farmers Plaza, Inc., CTA EB No. 2290 (CTA Case No. 9475) dated May 6, 2022.***

THE DETERMINATION OF THE VALIDITY OF A WARRANT OF DISTRAINT AND/OR LEVY ("WDL") ISSUED BY THE CIR FALLS UNDER THE "OTHER MATTERS" JURISDICTION OF THE CTA. In the present case, however, the taxpayer failed to appeal the WDL dated October 22, 2013. Instead of filing a Petition for Review before the Court, the taxpayer merely filed an *Offer of Compromise* on May 2, 2014 before the BIR, more than six months after it received the WDL. As a consequence, the WDL attained finality and the CTA was divested of any authority to review the validity thereof. To reiterate, the present Petition for Review strictly involves a challenge to the correctness of the denial by petitioner of respondent's offer of compromise. Thus, the judicial review of the CTA in the present case should focus only on the manner by which the CIR exercised its discretionary power to enter into compromise. ***Commissioner of Internal Revenue v. New Farmers Plaza, Inc., CTA EB No. 2290 (CTA Case No. 9475) dated May 6, 2022.***

A MOTION TO REOPEN TRIAL MAY ONLY BE AVAILED OF BEFORE JUDGMENT. a motion to reopen may properly be presented only after either or both parties have formally offered, and closed their evidence, but before judgment. On the other hand, a motion for new trial is proper only after rendition or promulgation of judgment. For another, a motion for reopening, unlike a motion for new trial, is not specifically mentioned and prescribed as a remedy by the Rules of Court. There is no specific provision in the Rules of Court governing motions to reopen. It is albeit a recognized procedural recourse or device, deriving validity and acceptance from long, established usage. ***Orica Phil., Inc. v. Commissioner of Internal Revenue, CTA EB No. 2336 (CTA Case No. 9717) dated May 31, 2022.***

AS LONG AS AN AMENDED DECISION WAS ISSUED BY THE COURT A QUO, A LITIGANT PLANNING TO FILE AN APPEAL WITH THE CTA *EN BANC* MUST NECESSARILY FILE A MOTION FOR RECONSIDERATION OR NEW TRIAL FIRST, EVEN THOUGH ONE OR BOTH LITIGANTS ALREADY FILED A MOTION FOR RECONSIDERATION OF THE ORIGINAL DECISION. Such amended decision is considered a new or different decision which therefore calls for the filing of another motion for reconsideration or new trial, before an appeal to the CTA *En Banc* may be made. Since both Ayala Corporation and the CIR failed to comply with this procedural requirement, the Court *En Banc* cannot validly acquire jurisdiction over their appeals. Accordingly, the Assailed Amended Decision has already attained finality, and can no longer be questioned by the parties. ***Ayala Corp. v. Commissioner of Internal Revenue, CTA EB Nos. 2417 and 2418 (CTA Case No. 9556) dated May 18, 2022.***

THE AMOUNT OF UNDECLARED IMPORT PURCHASES, BY ITSELF, SHOULD NOT BE TREATED AS INCOME, TO WHICH INCOME TAX SHOULD BE IMPOSED. Income in tax law is an amount of money coming to a person within a specified time, whether as payment for services, interest, or profit from investment. It means cash or its equivalent. It is the gain derived and severed from capital, from labor or from both combined. Income is profit or gain or the flow of wealth. The determining factor for the imposition of income tax is whether any gain or profit was derived by a taxpayer from a transaction. Moreover, it must be emphasized that for income tax purposes, a taxpayer is free to deduct from its gross income a lesser amount, or not to claim any deduction at all. What is prohibited by the income tax law is to claim a deduction beyond the amount authorized therein. Thus, even if a taxpayer has not claimed purchases, or declared a lesser amount thereof, in the Income Tax Return, such action is allowed, and shall not necessarily result in the imposition of income tax on the undeclared or underdeclared purchases. ***Steel Corp. of the Phil. v. Commissioner of Internal Revenue, CTA Case No. 9866 dated May 17, 2022.***

IN CASE OF UNDECLARED IMPORT PURCHASES, NO VAT SHOULD BE IMPOSED. VAT is a tax on transactions, imposed at every stage of the distribution process on the sale, barter, exchange of goods or property, and on the performance of services, even in the absence of profit attributable thereto. The seller is the one statutorily liable for the payment of the VAT. For sure, when one has undeclared imported purchases, such person is logically deemed as the buyer or purchaser of the goods and/or services, not the seller thereof. Such being the case, no VAT should be imposed on the supposed petitioner's undeclared "Imported Purchases". ***Steel Corp. of the Phil. v. Commissioner of Internal Revenue, CTA Case No. 9866 dated May 17, 2022.***

AN ASSESSMENT MUST CONTAIN A CLEAR DEMAND TO PAY THE TAX LIABILITIES. An assessment is a written notice and demand by the BIR on the taxpayer for the settlement of a due tax liability that is there definitely set and fixed. An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. In this case, a cursory reading of the Formal Letter of Demand (FLD) reveals that there is no indication that respondent demanded payment of the supposed tax liabilities within a specific period: "Pursuant to the provision of Section 228 of the aforesaid Code and its implementing revenue regulations, you are hereby given the opportunity to present in writing your side of the case within thirty (30) days from receipt hereof. However, if you are amenable, you may pay the above assessment thru the EFPS facility. Afterwards, submit the proof of payment thereof to the Regular Large Taxpayers Audit Division I at Rm 216 BIR National Office Building, BIR Road, Diliman, Quezon City for updating of your records…. It is requested that your aforesaid deficiency tax/taxes be paid immediately upon receipt hereof, inclusive of penalties otherwise the Formal Letter of Demand and Assessment Notice shall be issued." Since the FLDs with Details of Discrepancies and Assessment Notices issued by respondent failed to clearly demand payment of petitioner's supposed tax liabilities within a specific period, the Court finds that the FLDs cannot be considered valid formal assessment notices. ***Pepsi-Cola Products Phil., Inc. v. Commissioner of Internal Revenue, CTA Case No. 9170 dated May 6, 2022.***

THE REASSIGNMENT OR TRANSFER OF REVENUE OFFICER REQUIRES A NEW OR AMENDED LETTER OF AUTHORITY ("LOA") FOR THE SUBSTITUTE OR REPLACMENT REVENUE OFFICER TO CONTINUE THE AUDIT. Following the ruling of the Supreme Court in *Commissioner of Internal Revenue v. McDonald's Phil. Realty Corp. (G.R. No. 242670, May 10, 2021)*, it is clear that Revenue Officer ("RO") Muti was not authorized under a new and separate, or amended LOA to continue the audit or investigation. No new LOA was issued in the name of RO Muti to conduct such audit. Moreover, the electronic LOA dated July 16, 2015 was not amended or modified to include the name of RO Muti. Hence, the authority under which RO Muti continued the audit or investigation was not pursuant to the statutory power of respondent or his duly authorized representative to grant the authority to examine the taxpayer's books of accounts. ***Integreon Managed Solutions (Phil.), Inc. v. Commissioner of Internal Revenue, CTA Case No. 9876 dated May 13, 2022; see also Electrobyte Environmental Concerns Corp. v. Commissioner of Internal Revenue, CTA Case No. 9914 dated May 11, 2022.***

IDENTIFYING THE AUTHORIZED REVENUE OFFICERS IN THE LOA IS A JURISDICTIONAL REQUIREMENT OF A VALID AUDIT OR INVESTIGATION BY THE BIR, AND THEREFORE OF A VALID ASSESSMENT. The Supreme Court highlighted the importance of an LOA as an instrument of due process when it ruled in *Commissioner of Internal Revenue v. McDonald's Phil. Realty Corp. (G.R. No. 242670 dated May 10, 2021)* that a LOA should specifically name the ROs who will pursue the tax audit. In this case, the RO was able to audit, examine, and inspect petitioner's books of accounts and other accounting records through a mere Memorandum of Assignment, despite the clear mandate of RMO 43-90 requiring the issuance of a new LOA for the ROs to whom the audit of a taxpayer has been re-assigned. ***Sellery Phil. Enterprises, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10047 dated May 24, 2022.***

THE ISSUANCE OF THE PRELIMINARY ASSESSMENT NOTICE ("PAN"), AS WELL AS GIVING THE TAXPAYER 15 DAYS FROM RECEIPT THEREOF TO RESPOND TO SUCH NOTICE, ARE PART OF DUE PROCESS IN THE ISSUANCE OF TAX ASSESSMENTS. In this case, the taxpayer received the PAN on January 9, 2012. The taxpayer thus had until January 24, 2012 within which to file its reply thereto. However, the BIR issued the FLD dated January 5, 2012 and the four Final Assessment Notices ("FAN") all dated January 13, 2012 without waiting for the taxpayer's reply to the PAN or at least the expiration of the 15-day period provided by law. Thus, the FANs and FLD were issued prematurely and the taxpayer was deprived of the opportunity to be heard on the PAN, in clear violation of the due process requirement in the issuance of tax assessments. Consequently, the FANs and FLD are void and the deficiency tax assessments contained therein bear no valid fruit and must not be given any effect. ***Commissioner of Internal Revenue v. iZone Technologies Phil., CTA EB No. 2295 (CTA Case No. 8696) dated May 5, 2022.***

A REVALIDATION/REASSIGNMENT NOTICE IS A FUNCTIONAL EQUIVALENT OF THE NEW LOA REQUIRED FOR THE TRANSFER OR REASSIGNMENT OF THE CASE TO A NEW REVENUE OFFICER IF: (A) ITS CONTENTS IS SIMILAR TO THAT OF A LOA AND (B) IT WAS ISSUED BY THE OFFICIAL DULY AUTHORIZED TO ISSUE LOAS, NOT BY A REVENUE DISTRICT OFFICER OR OTHER SUBORDINATE OFFICIAL. ***Commissioner of Internal Revenue v. AirGlobe, Inc., CTA EB No. 2348 (CTA Case No. 9466) dated May 23 2022.***

THE FILING OF A PROTEST TO THE FAN DOES NOT ERASE THE FACT THAT THE TAXPAYER WAS DEPRIVED OF ITS RIGHT TO STATUTORY AND PROCEDURAL DUE PROCESS TO CONTEST THE ASSESSMENT BEFORE THE FAN WAS ISSUED. In this case, the BIR violated the taxpayer's right to due process as a result of the immediate issuance of the FANs without waiting for taxpayer's reply or default. ***Commissioner of Internal Revenue v. AirGlobe, Inc., CTA EB No. 2348 (CTA Case No. 9466) dated May 23 2022.***

RECEIPT OF THE LOA AND PCL IS NOT A GUARANTEE THAT THE TAXPYER ALSO RECEIVED THE PAN, FLD AND FAN, WHICH WERE ISSUED AFTER THE LOA AND BEFORE THE PCL. THE CIR MUST STILL PROVE THAT THE TAXPAYER ACTUALLY RECEIVED THE PAN/FLD/FAN. ***Commissioner of Internal Revenue v. OIC Construction & Dev't Corp., CTA EB No. 2394 (CTA Case No. 8851) dated May 31, 2022.***

THE TAXPAYER'S FAILURE TO PRESENT ITS TAX RETURNS BEFORE THE CTA CANNOT REASONABLY GIVE RISE TO THE PRESUMPTION THAT NO RETURNS HAVE BEEN FILED BEFORE THE BIR WITHIN THE PERIOD PRESCRIBED BY LAW FOR FILING THE RETURNS. Section 203 of the 1997 NIRC provides that internal revenue taxes shall be assessed within 3 years after the last day prescribed by law for the filing of return. Section 222(a) provides for the exception of 10-year period to assess in case of a false or fraudulent return with intent to evade tax or of failure to file a return. The CTA is not persuaded by Commissioner of Internal Revenue's specious theory of equating taxpayer's failure to present its tax returns for calendar 2006 as evidence before the court to the concept of "failure to file returns" as contemplated by Section 222(a) of the 1997 NIRC. That no returns were presented before the CTA does not necessarily mean that no returns were filed before the BIR. Under the rules of

statutory construction, exceptions, as a general rule, should be strictly but reasonably construed. ***Commissioner of Internal Revenue v. Marily Development Corporation, CTA EB No. 2450 (CTA Case No. 9756) dated May 31, 2022.***

INPUT VAT MAY STILL BE CREDITED TO OUTPUT VAT EVEN WHEN IT "CANNOT BE DIRECTLY ATTRIBUTED TO EITHER ACTIVITY." In other words, the law recognizes that an input VAT may still be credited even when the same is not *directly* attributable to the zero-rated sales of a VAT-registered person. Thus, there is no legal basis for respondent's stand that the fact of "direct attributability" must be established for input VAT to be refundable. ***Carmen Copper Corp. v. Commissioner of Internal Revenue, CTA Case No. 9954 dated May 31, 2022.***

IT IS INDISPENSABLE THAT A CLAIMANT OF TAX REFUND MUST PROVE THAT THE SERVICES IT RENDERED TO ITS FOREIGN AFFILIATES MUST HAVE BEEN PERFORMED OR RENDERED IN THE PHILIPPINES UNDER SECTION 108 OF THE 1997 NIRC. Whether a certain service is performed within or outside the Philippines is a question of fact which must be proved by clear and convincing evidence. Petitioner failed to clearly establish its compliance therewith as the Services Agreement between petitioner's Head Office and Franchise International S.A.R.L. does not bear any indication that the subject services were to be performed by petitioner in the Philippines. Neither is there any other evidence which tend to prove such fact. In addition, a reading of the said Services Agreement, it can be inferred that the same services may be performed by petitioner's Head Office or even Third-Party Provider, not only by petitioner itself. Since it was never established that the place of performance of the subject services is in the Philippines, petitioner's sales of services cannot qualify as subject to the zero percent (0%) VAT under Section 108(B)(2) of the 1997 NIRC. ***Regus Service Centre, Phil. B.V. – ROHQ v. Commissioner of Internal Revenue, CTA Case No. 10124 dated May 23, 2022.***

TO AVAIL OF THE FISCAL INCENTIVES INCLUDING THE BENEFIT OF VAT ZERO-RATING, A RENEWABLE ENERGY ("RA") DEVELOPER MUST SECURE THE FOLLOWING DOCUMENTS: (1) DEPARTMENT OF ENERGY ("DOE") CERTIFICATE OF REGISTRATION; (2) REGISTRATION WITH THE BOARD OF INVESETMENTS; AND (3) CERTIFICATE OF ENDORSEMENT BY THE DOE. All must be presented to prove that the purchases of the RE Developer are VAT zero-rated pursuant to Section 15(g) of the RE Law and its implementing rules and regulations and, consequently, for the purchaser's claim for refund to prosper. ***Trans-Asia Renewable Energy Corp. v. Commissioner of Internal Revenue, CTA EB Nos. 2314 and 2347 (CTA Case No. 9516) dated May 17, 2022.***

IT IS ONLY UPON THE ISSUANCE OF THE PREREQUISITE CERTIFICATE OF COMPLIANCE THAT A GENERATION COMPANY MAY BE REGARDED AS AUTHORIZED BY THE ENERGY REGULATORY COMMISSIOHNER TO OPERATE A GENERATION FACILITY, AND THUS, ENTITLED TO VAT ZERO-RATING OF ITS SALE OF POWER OR ELECTRICITY UNDER THE EPIRA LAW. ***Trans-Asia Renewable Energy Corp. v. Commissioner of Internal Revenue, CTA EB Nos. 2314 and 2347 (CTA Case No. 9516) dated May 17, 2022.***

PROOF OF ACTUAL REMITTANCE OF THE WITHHELD AMOUNT IS NOT A CONDITION TO CLAIM FOR REFUND OF UNUTILIZED TAX CREDITS. The withholding of income tax and the remittance thereof to the BIR is the responsibility of the payor and not the payee. The Certificates of Creditable Tax Withheld at Source issued by the withholding agents of the government are *prima facie* proof of actual payment by herein respondent-payee to the government itself through said agents. ***GIC Private Ltd. v. Commissioner of Internal Revenue, CTA Case No. 10017 dated May 11, 2022; see also Tullet Prebon (Phil.), Inc. v. Commissioner of Internal Revenue, CTA Case No. 10068 dated May 11, 2022.***

THE REQUIREMENTS THAT INCOME FROM WHICH THE TAX WAS WITHHELD WAS INCLUDED AS PART OF GROSS INCOME AND THAT THE FACT OF WITHHOLDING MUST BE EVIDENCED BY A COPY OF STATEMENT DULY ISSUED BY THE PAYOR TO THE PAYEE ONLY APPLIES TO CLAIMS FOR REFUND OF EXCESS INCOME TAX PAYMENTS OR EXCESS CREDITABLE WITHHOLDING TAX ("CWT") UNDER SECTION 76 OF THE 1997 NIRC. Said requirements does not apply to claim for refund of CWT which should not have been remitted to the BIR in the first place. In this case, TIEZA is exempt from income tax. Thus, petitioner, as buyer of the Hilaga Property from TIEZA, is not obliged to withhold CWT on the purchase price of the Hilaga Property pursuant to Sec. 2.57.5 of Revenue Regulations No. ("Rev. Regs.") 2-98, as amended. ***Premier Central, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10251 dated May 16, 2021.***

THE PRESENTATION OF SUMMARY ALPHALIST OF WITHHOLDING TAX ("SAWT") AND MONTHLY ALPHALIST OF PAYEES ("MAP") PRESCRIBED UNDER REV. REGS. 2-98, AS AMENDED BY REV. REGS. 2-2006, IS NOT REQUIRED TO SUBSTANTIATE A CLAIM FOR REFUND OF EXCESS/UNUTILIZED CWT. There is nothing in Rev. Regs. 2-2006 which states that the non- submission of SAWT and MAP would *ipso facto* result to the denial of a claim for tax refund or credit of excess and unutilized CWT. Rev. Regs. 2-2006 merely imposes, among others, a penalty of fine for non-submission of the information or statement required therein, but not the outright denial of a claim for tax refund or credit. ***Commissioner of Internal Revenue v. Sonoma Services, Inc., CTA EB No. 2467 (CTA Case No. 9808) dated May 24, 2022.***

BIR RULINGS AND ISSUANCES

REV. REGS. IMPLEMENTING SECTION 295(F), IN RELATION TO SECTION 294, OF THE 1997 NIRC ON THE TAX TREATMENT OF IMPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS INTO, AND SUBSEQUENT TRANSFER, TRANSPORT AND/OR WITHDRAWAL THROUGH AND FROM FREEPORT ZONES AND ECONOMIC ZONES. ***Revenue Regulations No. 4-2022 dated May 26, 2022.***

SUSPENSION OF AUDIT AND OTHER FIELD OPERATIONS PURSUANT TO AND UNDER AUTHORITY OF, ALL TASK FORCES CREATED THRU REVENUE SPECIAL ORDERS, OPERATIONS MEMORANDA AND OTHER SIMILAR ORDERS/DIRECTIVES. No field audit, field operations, or any form of business visitation in execution of LOA or Mission Orders ("MO") should be conducted by all task forces until further notice. Further, no written orders to audit and/or investigate taxpayers' internal revenue tax

liabilities shall be issued and/or served pursuant to, and under authority of, said task forces. ***Revenue Memorandum Circular No. 76-2022 dated May 30, 2022.***

SUSPENSION EFFECTIVE MAY 30, 2022 OF ALL PENDING LOAs/MOs. No field audit, field operations, or any form of business visitation in execution of LOA or MO should be conducted, nor any new LOA or MO shall be further issued. No written orders to audit and/or investigate taxpayers' internal revenue tax liabilities shall be issued and/or served except in certain cases. However, service of assessment notices, warrants, seizure notices should still be effected. Also, taxpayers may voluntarily pay their known deficiency taxes without the need to secure authority from concerned revenue officials. ***Revenue Memorandum Circular No. 77-2022 dated May 30, 2022.***

SEC ISSUANCES

SUBMISSION OF REPORTS THROUGH THE ELECTRONIC FILING AND SUBMISSION TOOL (eFAST). All registered corporations (stock and non-stock) MUST enroll in the eFAST, previously called the Online Submission Tool (OST), to access and submit their annual reports. Over-the-counter submission through appointment and mail shall no longer be accommodated. ***SEC Notice dated May 4, 2022.***

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 us at telephone number (632) 8633-9418, facsimile number (632) 8633-1911, or email us at mail@baniquedlaw.com.

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