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TAX ALERT

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COURT OF TAX APPEALS ("CTA") DECISIONS

OPTION TO FILE JUDICIAL CLAIM WITHIN 30 DAYS AFTER EXPIRATION OF THE 90-DAY PERIOD UNDER SECTION 112(C) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997 ("1997 NIRC") NOT AVAILABLE TO TAXPAYERS FROM EFFECTIVITY OF TRAIN TO PROMULGATION OF EOPTA. The amendments to Section 112(C) of the 1997 NIRC made by Republic Act No. ("RA") 10963 (the Tax Reform for Acceleration and Inclusion Act or "TRAIN"), and further amendments made by RA 11976 (the Ease of Paying Taxes Act or "EOPTA"), show that the "deemed denial" construction of the appeal period for judicial claims for refunds was not operative during the period between TRAIN and EOPTA. TRAIN removed any mention from Section 112(C) of the 1997 NIRC of the Commissioner of Internal Revenue's ("CIR") inaction or the expiration of the 90-day period to act on VAT refund claims. Under TRAIN, the CIR's inaction could not be appealed to the CTA. A taxpayer's only option to lodge a judicial claim with the CTA was to await the CIR's decision. ***Citco Int'l Support Services Ltd.-Phil. ROHQ v. Commissioner of Internal Revenue C.T.A. EB Case No. 2900 (CTA Case No. 10258), Aug. 7, 2025.***

JURISDICTION OF CTA TO REVIEW ON APPEAL EITHER THE DECISION OF THE CIR OR HIS INACTION ON A REFUND CLAIM IS CONFERRED UPON IT BY THE CTA CHARTER, NOT BY THE TAX CODE. THUS, THE JURISDICTION OF THE CTA THEREFORE REMAINS THE SAME DESPITE AMENDMENTS TO THE 1997 NIRC. The CTA Charter expressly vests the CTA with jurisdiction to review on appeal the decisions and inactions "deemed a denial" of the CIR involving, among others, refunds of internal revenue taxes. ***Deutsche Knowledge Services Pte., Ltd. v. Commissioner of Internal Revenue, C.T.A. Case No. 11491 (Resolution), Aug. 7, 2025.***

ONCE TAXPAYER DENIES RECEIPT OF TAX ASSESSMENT, BURDEN OF PROOF RESTS UPON THE BUREAU OF INTERNAL REVENUE ("BIR") TO PROVE THAT NOTICE HAS BEEN ACTUALLY RECEIVED. Jurisprudence provides that if the taxpayer denies ever having received an assessment from the BIR, it is incumbent upon the latter to prove by competent evidence that such notice was indeed received. The burden of proof is shifted to the BIR to prove by contrary evidence that the taxpayer actually received the assessment. ***Aegis Integrated Lightning and Grounding Protection, Inc. v. Commissioner of Internal Revenue, C.T.A. Case No. 10716, Aug. 13, 2025.***

TO QUALIFY FOR VAT ZERO-RATING UNDER RA 9513 (RENEWABLE ENERGY ACT OF 2008), THE FOLLOWING REQUIREMENTS MUST BE PRESENT: First, The Renewable Energy Developer ("RE Developer") must be registered with the Department of Energy and Board of Investments. Second, the local sales of goods, properties, and services to the RE Developer are necessary for the development, construction, and installation of the RE Developer's plant facilities, and the whole process of exploration and development of renewable

energy sources up to their conversion into power. ***Air Drilling Associates Pte. Ltd. v. Commissioner of Internal Revenue, C.T.A. Case No. 10752, Aug. 13, 2025.***

DOCUMENTARY STAMP TAX ("DST") ESSENTIALLY A TAX ON THE TRANSACTION AS REPRESENTED BY THE DOCUMENT AND NOT ON THE DOCUMENT ITSELF. THUS, NATURE AND CHARACTER OF UNDERLYING TRANSACTION BEING TAXED SHOULD BE CONSIDERED IN DETERMINING WHETHER DST MAY BE IMPOSED. In relation to debt instruments, the DST shall be imposed when the object of the contract is located or used in the Philippines. ***Commissioner of Internal Revenue v. Bloomberry Resorts Corp., C.T.A. EB Case No. 2933 (CTA Case No. 10193), Aug. 6, 2025; Bloomberry Resorts Corp. v. Commissioner of Internal Revenue, C.T.A. EB Case No. 2935 (CTA Case No. 10193), Aug. 6, 2025.***

ONCE TAXPAYER OBTAINS BIR RULING AND ACTS THEREON IN GOOD FAITH, SUBSEQUENT REVOCATION OR MODIFICATION OF THAT RULING CANNOT GENERALLY BE APPLIED RETROACTIVELY IF IT WILL BE PREJUDICIAL TO THE TAXPAYER. Under Section 246 of 1997 the NIRC, the CIR is precluded from adopting a position contrary to one previously taken where injustice would result to the taxpayer. To rule otherwise would be contrary to the tenets of good faith, equity, and fair play. ***Commissioner of Internal Revenue v. JTKC Land, Inc., C.T.A. EB Case No. 2933 (CTA Case No. 10059), Aug. 4, 2025; JTKC Land, Inc. v. Commissioner of Internal Revenue, C.T.A. EB Case No. 2808 (CTA Case No. 10059), Aug. 4, 2025.***

IN THE ABSENCE OF A LAW EXPRESSLY IMPOSING EXCISE TAX, APPROPRIATE RULE TO BE APPLIED IS STRICT INTERPRETATION IN IMPOSITION OF TAXES SUCH THAT STATUTE MUST BE CONSTRUED MOST STRONGLY AGAINST GOVERNMENT AND IN FAVOR OF TAXPAYER. Insofar as excise tax is concerned, non-taxability is the rule, while taxability is the exception. As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws. ***Commissioner of Internal Revenue v. Petron Corp. C.T.A. EB Case No. 2894 (CTA Case No. 9947), Aug. 1, 2025.***

TAX VERIFICATION NOTICE ISSUED BY REVENUE DISTRICT OFFICER NOT EQUIVALENT TO LETTER OF AUTHORITY ("LOA") TO AUTHORIZE EXAMINATION OF TAXPAYER. Section 10(C) of the 1997 NIRC provides that the Regional Director shall issue LOAs for the examination of taxpayers within the region. In addition, Section 13 of the 1997 NIRC provides that a Revenue Officer assigned to perform assessment functions in any district may, pursuant to an LOA issued by the Regional Director, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or to recommend the assessment of any deficiency tax due in the same manner that the said acts could have been performed by the Regional Director himself. It is clear that the examination of a taxpayer may only be done by the CIR or his duly authorized representative, among of which are the Regional Directors, through the issuance of an LOA and that Regional Directors may authorize Revenue Officers to conduct the examination by issuing such LOA. ***Commissioner of Internal Revenue v. St. Paul Hospital Cavite, C.T.A. EB Case No. 2880 (CTA Case No. 9947), Aug. 15, 2025.***

WHEN TAXPAYER PROTESTS ASSESSMENT, BIR IS REQUIRED TO ADDRESS ARGUMENTS RAISED BY TAXPAYER. IGNORING SUCH ARGUMENTS CONSTIUTES DENIAL OF DUE PROCESS WHICH NULLIFIES ASSESSMENT. Failing to state the factual and legal bases for rejecting the taxpayer's arguments is the same as failing to state the factual and legal bases for the assessment. Therefore, if an assessment notice does not clearly defend against such protests in writing, then it fails to actually state the factual and legal bases and an assessment which nullifies such assessment. ***E.E. Black, Ltd. (Phil. Branch) v. Commissioner of Internal Revenue, CTA Case No. 11074, Aug. 7, 2025.***

SUBSTITUTED SERVICE OF BIR NOTICES, SUCH AS PRELIMINARY ASSESSMENT NOTICE ("PAN"), FINAL ASSESSMENT NOTICE ("FAN"), AND FINAL DECISION ON DISPUTED ASSESSMENT, MUST COMPLY WITH THE FOLLOWING CONDITIONS: First, there is no person found at the taxpayer's registered or known address, or, if the taxpayer is found in the registered or known address, the latter refuses to receive such BIR notice. Second, presence of a barangay official and two disinterested witnesses, personally observing and attesting to said absence, or refusal to receive said BIR notice. Third, such BIR notice must be given to said barangay official. Lastly, the fact of the taxpayer's absence, or refusal to receive the BIR notice, must be contained in said BIR notice, along with the names, official position/s, and signatures of the disinterested witnesses. ***ESS Mfg. Co., Inc. v. Commissioner of Internal Revenue, CTA Case No. 10763, Aug. 14, 2025.***

THE BIR'S FAILURE TO COMPLY WITH REQUIREMENTS UNDER THE KAW AND ITS OWN RULES AND REGULATIONS CONSTITUTES DENIAL OF DUE PROCESS. THUS, FAILURE TO SEND TAXPAYER A PAN NULLFIES THE ASSESSMENT. The taxpayer received the PAN, dated March 11, 2015, on March 12, 2015. Pursuant to Revenue Regulations No. 12-99, the taxpayer had 15 days, or until March 27, 2015, to submit its reply thereto. However, without awaiting the expiration of the 15-day period, the BIR prematurely issued the FAN on March 26, 2015, a day early, effectively depriving the taxpayer of its full 15-day period to respond to the PAN. Moreover, receipt of the FAN and/or filing a protest thereon does not cure the violation of due process, and any assessment issued in disregard of the taxpayer's right to respond within the prescribed period is null and void. ***GMA Worldwide (Phil.), Inc. v. Commissioner of Internal Revenue CTA Case No. 11158, Aug. 1, 2025.***

AS PROVIDED UNDER SECTION 4 OF THE 1997 NIRC, INTERPRETATION OF TAX LAWS UNDER EXCLUSIVE AND ORIGINAL JURISDICTION OF CIR, SUBJECT TO REVIEW BY SECRETARY OF FINANCE. The taxpayer failed to exhaust administrative remedies for failure to elevate the case to the Secretary of Finance before resorting to the CTA. There is a statutory remedy to question adverse interpretations made by the CIR in relation to the 1997 NIRC and its rules and regulations and, thus, should have been exhausted first. The remedy of elevating the case before the Secretary of Finance under Section 4 of the 1997 NIRC was available to the taxpayer prior to resorting to the CTA. Hence, the taxpayer had a plain, speedy, and adequate remedy in the ordinary course of law. The taxpayer's failure to avail of such remedy is fatal to its petition. ***Nestle Phil., Inc. v. Commissioner of Internal Revenue, CTA Case No. SCA-0016, Aug. 7, 2025.***

TAX DATA AND ASSESSMENT FORM NOT OFFICIAL NOTICE OF ASSESSMENT WITHIN THE PURVIEW OF SECTION 195 OF THE LOCAL GOVERNMENT CODE OF 1991 ("LGC"). A notice of assessment as contemplated in Section 195 of the LGC must contain the following information: (i) the nature of the assessed tax, fee, or charge; (ii) the amount of deficiency, surcharges, interests and penalties; and (iii), the factual and legal bases of the assessment. ***O & S Trading and Construction Supply, Inc. Jr. v. City Treasurer of Las Piñas City, CTA AC No. 303, Aug. 1, 2025.***

TAX ORDER OF PAYMENT NOT "NOTICE OF ASSESSMENT" CONTEMPLATED BY SECTION 195 OF LGC. A valid notice of assessment under Section 195 must clearly state the nature of the tax, fee, or charge, as well as the amount of deficiency, and any applicable surcharges, interest, and penalties. ***Team (Phil.) Energy Corp. v. Municipality of Pagbilao, Quezon, CTA AC No. 331, Aug. 11, 2025.***

NEW LOA REQUIRED IN CASES OF REASSIGNMENT OR TRANSFER OF EXAMINATION TO ANOTHER REVENUE OFFICER. MEMORANDUM OF ASSIGNMENT DOES NOT CONFER AUTHORITY TO REPLACEMENT REVENUE OFFICER. Revenue Memorandum Order No. ("RMO") 43-90 mandates the issuance of a new LOA in cases of reassignment or transfer of examination to another Revenue Officer. The said RMO provides that "[a]ny reassignment/transfer of cases to another RO(s), and revalidation of [LOAs] which have already expired, shall require the issuance of a new [LOA], with the corresponding notation thereto, including the previous [LOA] number and date of issue of said previous LOA" ***Orient Overseas Container Line Ltd. v. Commissioner of Internal Revenue, CTA Case No. 10296, Aug. 1, 2025.***

MEMORANDUM OF ASSIGNMENT DOES NOT CONFER AUTHORITY TO NEW BATCH OF REVENUE OFFICERS TO CONTINUE AUDIT OR INVESTIGATION. The lack of a new LOA is not rectified by the participation of at least one of the individuals named in the initial LOA. Even if a Revenue Officer named in the initial LOA participated in the examination, the involvement of the unauthorized Revenue Officers taints the investigation. Only the Revenue Officers named in the LOA are authorized to examine the taxpayer. ***Commissioner of Internal Revenue v. 3M Phil., Inc., C.T.A. EB Case No. 2872 (CTA Case No. 9841), Aug. 20, 2025.***

FILING OF INFORMATION WITH CTA INTERRUPTS PRESCRIPTIVE PERIOD TO PROSECUTE CRIMINAL VIOLATIONS OF THE 1997 NIRC. Rule 9, Section 2 of the Revised Rules of the Court of Tax Appeals directly identifies the filing of an information with the CTA as the act which institutes criminal actions and directly identifies the institution of criminal actions as the event that interrupts the prescriptive period to prosecute criminal violations of the Tax Code. It identifies no other event that institutes the action. It identifies no other event that interrupts the prescriptive period. As such, it identifies only the filing of an information with the CTA as the event that interrupts the prescriptive period. ***People of the Phil. v. Loo Tian, CTA EB Crim Case No. 112 (CTA Crim Case No O-957) (Resolution), Aug. 4, 2025.***

AS A GENERAL RULE, COLLECTION MUST BE PRECEDED BY A VALID ASSESSMENT. BY WAY OF EXCEPTION, TAXES MAY BE COLLECTED WITHOUT

AN ASSESSMENT IF NON- PAYMENT IS BASED ON FALSITY, FRAUD, OR WILLFUL OMISSION. When a taxpayer is convicted of willful failure to pay tax under Section 255 of the 1997 NIRC, it is thus immaterial for purposes of tax collection that no prior assessment was made by the BIR, or that a void assessment was made. Conviction carries with it the finding that the element of falsity, fraud, or willful omission exists. Collection need not be based on a tax assessment because the taxpayer's own conduct prevented the proper assessment of taxes. ***People of the Phil. v. Robin, CTA Crim Case No. A-19, Aug. 13, 2025.***

ASSESSMENT NOTICE, DESPITE ATTAINING FINALITY, NOT CONCLUSIVE AS TO OWNERSHIP OF PROPERTIES INCLUDED THEREIN. The 1997 NIRC does not govern issues of ownership of property. It primarily addresses the taxability of transactions, properties, and persons. It does not define ownership, possession, property relations, or modifications thereof. The question of property ownership is primarily governed by the Civil Code of the Philippines, and, in the case of shares of stock, by the Revised Corporation Code, not the 1997 NIRC. The inclusion of a property in the gross estate under a final and executory estate tax assessment is not conclusive proof of ownership. ***San Miguel Corp. v. Commissioner of Internal Revenue, CTA SCA Case No. 0030, Aug. 14, 2025.***

REVISED RULES OF THE COURT OF TAX APPEALS ("RRCTA") MERELY REQUIRES THAT ASSAILED DECISION APPEALED FROM IS APPENDED TO PETITION FOR REVIEW. the RRCTA, as the special rules promulgated for the conduct of proceedings tax cases in the CTA, provides that the Rules of Court shall only have suppletory application thereto. The Rules of Court should not diminish nor enlarge that which is provided for in the RRCTA. Hence, the minimum requirement of attaching the assailed decision in the petition as provided in the RRCTA is sufficient. While Rule 42 of the Rules of Court provides that a petition for review must be accompanied not only by the assailed decision, but also other material portions of the record that would support the allegations, the lack of the latter is not a sufficient ground to dismiss a case before the CTA. ***Hai Long Shipbuilding & Lighterage, Inc. v. Commissioner of Customs, CTA Case No. 10622, Aug. 28, 2025.***

THE FACT THAT THE TAXPAYER SUBMITTED AN INTELLIGENT PROTEST DOES NOT CURE THE BIR'S OBLIGATION TO INFORM THE TAXPAYER IN WRITING OF THE FACTUAL AND LEGAL BASES OF THE ASSESSMENT. It is improper to use the very act of filing an intelligently crafted protest against the interests of the taxpayer who successfully made it. The 1997 NIRC expressly requires that taxpayers be informed in writing of the law and the facts on which the assessment is based. This requirement is mandatory and cannot be presumed. Failure to comply with this requirement renders the assessment void. ***Commissioner of Internal Revenue v. Sps. Pacquiao, C.T.A. EB Case No. 2737 (CTA Case No. 8683), Aug. 18, 2025.***

BIR CANNOT PROCEED WITH COLLECTION ENFORCEMENT THROUGH ISSUANCE OF WARRANT OF DISTRAINT AND/OR LEVY IF THE DEFICIENCY TAX ASSESSMENT IS NOT YET DELINQUENT BECAUSE OF A PENDING VALID AND TIMELY APPEAL WITH CIR. The last paragraph of Section 2 of Revenue Regulations No. 9-2024 provides that the running of the Statute of Limitations, particularly the period to collect, shall be suspended during the pendency of a valid and timely administrative appeal, and for 60 days

thereafter, and shall continue to run again upon the lapse of 60 days from the date of issuance of the decision of the CIR on the administrative appeal. Taken together, the law and regulations harmonize to the end that the government's right to collect is preserved through the suspension of the statute of limitations while the taxpayer is protected from premature and unwarranted collection efforts while its appeal remains unresolved. ***BSFIL Technologies, Inc. v. Commissioner of Internal Revenue, C.T.A. Case No. 10603, Aug. 29, 2025.***

BIR ISSUANCES

ISSUANCE IMPLEMENTING THE DST RATE ADJUSTMENTS AND AMENDMENTS TO TRANSACTIONS NOT SUBJECT TO DST UNDER REPUBLIC ACT NO. 12214, OTHERWISE KNOWN AS THE "CAPITAL MARKETS EFFICIENCY PROMOTION ACT." The regulation implements the rate adjustments for DST under Sections 174, 176, and 179 of the Tax Code and the amendments to the documents and papers not subject to DST under Section 199 of the same Code. ***Revenue Regulations No. 19-2025, Aug. 5, 2025.***

ISSUANCE IMPLEMENTING THE RATE ADJUSTMENT OF STOCK TRANSACTION TAX ("STT") AND THE IMPOSITION OF THE STT ON THE SALE OR EXCHANGE OF DOMESTIC SHARES OF STOCKS AND OTHER SECURITIES LISTED AND TRADED THROUGH A FOREIGN STOCK EXCHANGE UNDER SECTION 17 OF REPUBLIC ACT NO. 12214, OTHERWISE KNOWN AS THE "CAPITAL MARKETS EFFICIENCY PROMOTIONS ACT" FURTHER AMENDING SECTION 127 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997. The regulation implements the STT rate adjustment and the imposition of the STT on the sale or exchange of domestic shares of stocks and other securities listed and traded through a foreign stock exchange under Section 127 of the Tax Code. ***Revenue Regulations No. 20-2025 dated August 05, 2025.***

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 send us an email at mail@baniquedlaw.com.

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