TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.

TAX UPDATES FROM MARCH 16, 2024 TO APRIL 15, 2024

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DECISION / ISSUANCE	DATE ISSUED	SUBJECT	PAGE NO.
SUPREME COURT ("SC") DECISIONS			
1. Metropolitan Waterworks and Sewerage System v. Provincial Government of Bulacan, G.R. No. 185184	October 3, 2023 [Date uploaded: March 22, 2024]	Dam water, being already appropriated water, no longer forms part of a natural resource and is no longer subject of national wealth tax.	
2. People v. Tiotangco, G.R. No. 264192	November 13, 2023 [Date uploaded: March 25, 2024]	A valid assessment for deficiency taxes is not a prerequisite for collecting the taxpayer-accused's civil liability for unpaid taxes in the criminal prosecution for tax law violations.	
3. Asian Transmission Corporation v. Commissioner of Internal Revenue, G.R. No. 242489	November 8, 2023 [Date uploaded March 26, 2024]	In computing a taxpayer's deficiency withholding tax on compensation, the maximum rate of 32% cannot be simply applied if employees who received the compensation include rank and file to top managerial employees, whose graduated tax rates range from 5% to 32%.	
COURT OF TAX APPEALS ("CTA") DECISIONS			
1. MD Rio Vista Agri-Ventures, Inc. V. Commissioner of Internal Revenue, CTA Case No. 11247	March 19, 2024	The judicial claim for refund shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day (now 90-day) period, whichever is sooner.	
2. Bohol JSL Enterprises, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10575	March 21, 2024	In cases where the BIR conducts an audit without a valid Letter of Authority ("**LOA**"), or in excess of the authority duly provided therefor, the resulting assessments shall be void and ineffectual.	
3. Racal Motorsales Corp. v. Bureau of Internal Revenue, CTA Case No. 9737 (Resolution)	March 21, 2024	A reinvestigation, once granted by the BIR on the basis of newly discovered evidence or additional evidence, is in effect a continuation of the examination and audit of the taxpayer which necessitates the issuance of a new Letter of Authority.	
4. People v. Napoles, CTA Crim. Case Nos. O-485, O-486, O-487, O-488, O-490, O-491, O-492, O-493, O-494, O-495, O-496 & O-498	March 21, 2024	In criminal cases, when the Expenditure Method is resorted to in the determination of tax liabilities, it is not enough that the expenditures are proven, the plaintiff must likewise show proof of the likely source of income or funds which the accused used for his/her expenditures.	
5. People v. Regional Trial Court, Branch 40-Dagupan City, CTA SCA Case No. 0001 (Resolution)	March 21, 2024	BIR lawyers may represent the Republic of the Philippines in cases of first instance or an original action independent from the principal action, such as a petition for certiorari.	
6. BB International Leisure and Resort Development Corp. v. Bureau of Internal Revenue, C.T.A. Case No. 10841	March 26, 2024	It is not the issuance of the Reminder Letters which gives rise to a cause of action to affected taxpayers, but the BIR's issuance (i.e., Revenue Memorandum Circular No. 32-2022), which is the legal basis of the said Reminder Letters.	

7. Commissioner of Internal Revenue v. Misamis Oriental II Rural Electric Service Cooperative, Inc., CTA EB Case No. 2519 (CTA Case No. 9732) Resolution)	April 1, 2024	Revenue Officers must be armed with a valid Letter of Authority to conduct an assessment. Further, the CTA may enjoin the collection of taxes if such collection will jeopardize the interest of the government or the taxpayer.	
8. Goldmine Rice Marketing v. District Collector of Customs, CTA EB Case No. 2617 (CTA Case No. 10559) (Resolution)	April 1, 2024	For a protest to be deemed timely filed, the party must clearly state if the same was made within 15 days from receipt of the adverse ruling of the District Collector or from payment, as a result of the adverse ruling.	
9. Jowelle's Auto Parts, Inc. v. Bureau of Internal Revenue, CTA Case No. 10018 (Resolution)	April 2, 2024	The BIR's issuance of a Preliminary Collection Letter instead of a Final Demand of Disputed Assessment is not necessarily a deprivation of a taxpayer's right to due process, provided that the requirement of Section 228 of the National Internal Revenue Code ("**NIRC**"), to be informed of the law and the facts on which the assessment is made, is fulfilled. On the application of the ten (10)-year period to access, unintentional or inadvertent errors do not necessarily constitute outright fraud to call for the application of the 10-year period.	
10. W.L. Segovia & Associates v. Commissioner of Internal Revenue, CTA Case No. 10328 (Resolution)	April 2, 2024	Before evidence may come into being, it must be formally offered, and admitted by the Court.	
11. Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue, CTA EB Case No. 2680 (CTA Case No. 10106)	April 2, 2024	Since the Court of Tax Appeals is vested with exclusive appellate jurisdiction to review by appeal the inaction of the Commissioner of Internal Revenue ("**CIR**") in cases involving refunds of internal revenue taxes, it has jurisdiction to take cognizance of the Petition for Review.	
12. Davao City Water District v. Commissioner of Internal Revenue, CTA EB Case No. 2725 (CTA Case Nos. 9138, 9139, 9140, 9141, 9142 and 9143)	April 2, 2024	Water utilities that have been granted franchise to operate as such by Presidential Decree No. 198 (he Provincial Water Utilities Act of 1973) are liable for the franchise tax imposed under Section 119 of the Tax Code.	
13. People v. Del Rosario, CTA Crim. Case No. O-717 (Resolution)	April 3, 2024	The prescriptive period to file a criminal case for violations of the Tax Code is tolled only when the Information is filed before the Court of Tax Appeals, and not when a complaint is filed before the Department of Justice ("DOJ")	
14. JTKC Land, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9508 (Resolution)	April 4, 2024	Failure to prove that the PAN was received renders the assessment null and void. Without proof of receipt, the PAN is deemed not received. Hence, the right to be informed of the assessments issued against has been violated.	
15. People v. Bartolome, CTA Crim. Case No. O-984 (Resolution)	April 4, 2024	For cases prosecuted before the Court of Tax Appeals, it is the institution of a criminal action through the filing of an Information — not the filing of a complaint before the DOJ — that interrupts the running of the prescriptive period.	
16. People v. Ariete, CTA Crim. Case No. A-18 (Criminal Case No. 30153)	April 8, 2024	Service of the FLD/FAN may be made through registered mail, and there is created a disputable presumption that such assessment notices were received by the addressee in the	

		regular course of the mail. The estimated turnaround time for such registered mail to be delivered is seven (7) working days.	
17. Marina Square Properties, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10349	April 11, 2024	When the BIR rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must not be left unaware on how the BIR or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment. Otherwise, the tax assessments are void for violation of the taxpayer's right to due process.	
18. Manulife Data Services, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10381	April 11, 2024	It is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. It is thus the taxpayer who ultimately decides what documents ought to be presented before the BIR to substantiate its VAT refund claim.	
19. Powernet Systems Corp. v. Commissioner of Internal Revenue, CTA Case No. 10383	April 11, 2024	When the assessment is comprised of several issues, only the particular issues validly protested are considered disputed; while the particular issues undisputed become final, executory and demandable.	
20. Eurofragance Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10169	March 19, 2024	The scope of the CTA's review covers factual findings. The CTA is a court of record and is required to conduct a formal trial (trial de novo) where the parties must present their evidence accordingly, if they desire, to the CTA.	
21. Cruz v. Commissioner of Internal Revenue, CTA Case No. 10404	April 11, 2024	The perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.	
22. Commissioner of Internal Revenue v. Sofgen Holdings Limited-Philippine Branch, CTA EB Case No. 2695 (CTA Case No. 9691)	April 12, 2024	As a void assessment bears no valid fruit, the proceedings that emanate therefrom are equally a nullity. Conversely put, since petitioners' assessment of respondent is void for a clear violation of the due process requirements, the amounts erroneously paid should be refunded in the latter's favor.	
REVENUE REGULATIONS ("RRs")			
1. RR No. 3-2024	April 11, 2024	This RR amends certain provisions of RR No. 16-2005 or the "Consolidated Value-Added Tax Regulations of 2005."	
2. RR No. 4-2024	April 11, 2024	This RR prescribes the modes of filing of tax returns and payment of internal revenue taxes, pursuant to the Ease of Paying Taxes Act. The filing of tax returns shall be done electronically, however, in case of unavailability of the electronic platforms, manual filing of tax returns may be allowed. For tax payments, the same shall be made either electronically or manually.	

		The RR also removed the civil penalty of 25% in case of filing of return at the wrong venue.	
3. RR No. 6-2024	April 11, 2024	This RR provides for the reduced penalty rates applicable to micro and small taxpayers.	
4. RR No. 7-2024	April 11, 2024	The RR implements the amendments on the registration procedures and invoicing requirements.	
5. RR No. 8-2024	April 11, 2024	This RR provides for the classification of taxpayers. Taxpayers shall be classified based on gross sales for a taxable year. Gross sales shall refer to total sales revenue, net of VAT, if applicable, during the taxable year, without any other deductions. Gross sales shall only cover business income, excluding compensation income earned under employer-employee relationship, passive income, and income excluded under Section 32(B) of the Tax Code. Business income shall include income from the conduct of trade or business or the exercise of a profession.	
REVENUE MEMORANDUM CIRCULARS ("RMCs")			
1. RMC No. 39-2024	March 18, 2024	Announces the availability of BIR Form No. 1701 in the Electronic Filing and Payment System (eFPS)	
2. RMC No. 40-2024	March 18, 2024	Announces the new and upgraded Internal Revenue Stamp design for cigarettes, heated tobacco products, and vapor products	
3. RMC No. 41-2024	March 18, 2024	Circularizes the policies and guidelines on the launching of the 4th Generation Internal Revenue Stamps for purposes of ordering and inventory planning of importers and local manufacturers of cigarettes, heated tobacco products, and vapor products	
4. RMC No. 48-2024	April 2, 2024	Prescribes the policies and procedures in the proper manner of accomplishing the new version of the Monthly Documentary Stamp Tax Declaration/Return (BIR Form 2000 version 2018)	
5. RMC No. 49-2024	April 3, 2024	Circularizes Joint Memorandum Circular No. 2023-003, Series of 2023, issued by the Department of Human Settlements and Urban Development and the National Economic and Development Authority	
6. RMC No. 51-2024	April 8, 2024	Prescribes guidelines in the filing of Annual Income Tax Returns and payment of taxes due thereon for Calendar Year 2023	
7. RMC No. 52-2024	April 8, 2024	Announces the availability of the BIR Electronic Tax Clearance System (eTCS) for taxpayer-applicants registered under Revenue Region No. 8A – Makati City as the pilot region	
8. RMC N0. 54-2024	April 15, 2024	Amends RMC No. 91-2018 relative to the Taxpayer Identification Number (TIN) Issuance to Clients of Microfinance Non-Government Organizations (MF-NGOs) and Members of Cooperatives through Online Registration and Update System (ORUS)	
9. RMC No. 55-2024	April 15, 2024	Extends the ninety-day period for the actual imposition of Withholding Tax on Gross Remittances made by electronic marketplace operators and digital financial services providers to sellers/merchants prescribed under RR No. 16-2023.	

DISCUSSION

A. SUPREME COURT DECISIONS

1. Dam water, being already appropriated water, no longer forms part of a natural resource and is no longer subject of national wealth tax.

The Provincial Government of Bulacan filed a Complaint for Specific Performance/Payment of National Wealth Share against the Metropolitan Waterworks and Sewerage System ("**MWSS**") alleging that since Angat Dam is located within Bulacan, MWSS should pay the Provincial Government of Bulacan a share arising from the utilization and development of national wealth pursuant to Section 7, Article X of the Constitution in relation to Sections 289, 291, and 292 of the Local Government Code ("**LGC**"). In its answer, MWSS argued that the Provincial Government of Bulacan has no cause of action against it, there being no privity of contract between them. Further, MWSS argued that the water stored in Angat Dam did not necessarily come from Bulacan but was simply stored in it and that because a dam is a man-made structure, it does not fall within the purview of national wealth that would entitle a local government unit to an equitable share in the proceeds derived from its utilization and development.

The Regional Trial Court ("**RTC**") granted the Provincial Government of Bulacan's complaint and ruled that in the maintenance of dams and water reservoirs, MWSS is engaged in the profitable utilization and development of water. Thus, MWSS is liable to pay respondent its national wealth share as provided for under the LGC. The Court of Appeals affirmed the RTC ruling.

The Supreme Court ruled that to ascertain whether a local government unit is entitled to a share in the proceeds of the utilization and development of national wealth, there must be concurrence of the following requisites: (a) there must exist a national wealth forming part of a natural resource, (b) the national wealth must be located within the local government unit's ("**LGU's**") territory, and (c) the proceeds must have been generated from the utilization and development of national wealth. In this case, the Court ruled that the requisites are absent. *First*, the Court ruled that while water, as a natural resource, is national wealth, dam water, which is appropriated water (or water that is already taken or diverted from a natural source), is already removed from natural resource and can no longer be subject of national wealth tax. The fact of appropriation is crucial in determining the point within which necessary tax is to be imposed on the utilization and development of water. Thus, the moment that water from Angat River is already appropriated and impounded into the Angat Dam, it ceases to form part of natural resource. *Second*, MWSS was created for regulatory functions and it does not make use of the water in Angat Dam to gain profit. MWSS converts to good use the water in Angat Dam solely for the purpose of operating and maintaining waterworks system for the supply and distribution of potable water to the consuming public. *(Metropolitan Waterworks and Sewerage System v. Provincial Government of Bulacan, G.R. No. 185184, October 3, 2023)*

2. A valid assessment for deficiency taxes is not a prerequisite for collecting the taxpayer-accused's civil liability for unpaid taxes in the criminal prosecution for tax law violations.

Rebecca was charged with violation of Section 255 of the 1997 Tax Code in two Informations filed before the CTA. The tax court found probable cause for the issuance of arrest warrants. Subsequently, Rebecca posted bail and pleaded "not guilty" on arraignment.

The CTA Division found Rebecca guilty beyond reasonable doubt of the offense charged. The prosecution proved that Rebecca willfully failed to supply correct and accurate information in her annual income tax returns for the taxable years 2008 and 2010. However, the CTA Division ruled that no proper determination of Rebecca's civil liabilities could be made since the required assessment procedures to collect taxes were not complied with.

On reconsideration, the CTA Division affirmed Rebecca's conviction. The CTA Division reiterated that it cannot properly determine Rebecca's civil liability for deficiency taxes for lack of a valid assessment. Before the CTA En Banc, the sole issue raised was whether the CTA Division "erred in holding that a tax deficiency cannot be collected in a criminal proceeding in court without an assessment." The CTA En Banc ruled that while Section 205 of the 1997 Tax Code explicitly mandates the inclusion of an order for payment of the unpaid taxes in the judgment in the criminal case, it is also clear that there must first be a final determination of such civil liability by the CIR. Without such final determination, there will be no basis for the CTA to rule on the civil liability of the taxpayer-accused, as in this case.

The core issue is whether a final assessment is necessary for the imposition of civil liability for taxes in the same criminal action.

The Supreme Court ruled that a valid assessment for deficiency taxes is not a prerequisite for collecting the taxpayer-accused's civil liability for unpaid taxes in the criminal prosecution for tax law violations. In the recent case of *People v. Mendez*, the Court clarified that with the advent of Republic Act No. 9282, a formal assessment is no longer a condition precedent to the imposition of civil liability for unpaid taxes relative to the criminal tax case. Here, the prosecution did not file a civil action for collection of deficiency taxes apart from the criminal case for violation of Section 255 of the 1997 Tax Code. The criminal action is deemed a collection case. Therefore, a prior assessment is not required for the CTA to rule on Rebecca's deficiency tax liability. The amount of unpaid taxes and the corresponding penalties can be determined by competent evidence, other than the formal assessment.

The order for payment of taxes in the criminal case despite the absence of a valid assessment is not a violation of the taxpayer-accused's right to due process. The essence of due process is that taxpayers are able to present their case and adduce supporting evidence. Since both the civil and criminal liabilities will be tried jointly, the taxpayer-accused can dispute the alleged deficiency taxes in the same criminal action by presenting competent evidence. Unlike in a civil case for collection, where notices of the assessment are part of the due process requirement, a precise computation and final determination of a deficiency tax is not required in a criminal case for tax violations. In a criminal action for tax violation, the government must prove not only the guilt of the accused by proof beyond reasonable doubt, but also the civil liability for taxes by competent evidence (other than an assessment). (*People of the Philippines v. Rebecca S. Tiotangco, G.R. No. 264192, November 13, 2023)*

3. In computing a taxpayer's deficiency withholding tax on compensation, the maximum rate of 32% cannot be simply applied if employees who received the compensation include rank and file to top managerial employees, whose graduated tax rates range from 5% to 32%.

Petitioner Asian Transmission Corporation ("**ATC**") appealed the Final Decision on Disputed Assessment ("**FDDA**") it received from the BIR and requested for the reconsideration and/or cancellation of the deficiency withholding tax on compensation ("**WTC**") assessed against it for taxable year 2001. However, the CIR denied ATC's request for reconsideration. Thus, ATC filed

a Petition for Review with the CTA. In its Decision, the CTA *En Banc* applied the effective tax rate in computing the WTC tax liability of ATC. The effective tax rate was based on the total WTC paid by ATC divided by the total amount of taxable gross compensation reported during the taxable year 2001.

On the first issue, the CIR argues that the CTA *En Banc* erred in using an effective tax rate of only 19.88% instead of the maximum rate of 32%, and for cancelling the compromise penalty in the amount of PHP50,000.00.

The Supreme Court actually ruled that the CIR failed to show that its Petition falls under the recognized exceptions to the general rule that only questions of law may be raised in a petition for review on certiorari. In any case, the Supreme Court found that the CTA *En Banc*, is correct in using the effective tax rate of 19.88%.

The Supreme Court explained that the maximum rate of 32% cannot be simply applied considering the employees who received the compensation include rank and file to top managerial employees, whose graduated tax rates range from 5% to 32%. The Supreme Court, in *Commissioner of Internal Revenue v. Liquigaz Philippines Corp.*, already recognized the use of effective tax rate when computing for withholding tax on compensation.

Based on records, the compensation expenses of ATC include payments of benefits covered under the collective bargaining agreement ("**CBA**") for non-supervisory labor union to regular managerial and supervisory employees of ATC, as well as other staff not covered in the CBA. Logically, therefore, the maximum graduated rate of 32% cannot be simply applied to all unaccounted compensation considering that non-supervisory employees, or rank and file employees, of ATC are not getting that same rate of compensation as compared to regular managerial and supervisory employees.

On the second issue, ATC argues that the CTA *En Banc* erred in the simultaneous imposition of 20% deficiency and 20% delinquency interests as the same is illegal for being confiscatory and unconscionable.

However, the Supreme Court, citing *Aces Philippines Cellular Satellite Corp. v. Commissioner of Internal Revenue*, ruled that the NIRC clearly imposes deficiency interest at the rate of 20% per annum on any deficiency in the tax due from the date prescribed for its payment under the relevant tax law until full payment thereof. In addition, the NIRC imposes delinquency interest at the rate of 20% per annum on any deficiency tax, or any surcharge or interest thereon from its due date, appearing in the notice and demand, until the amount is fully paid. Failure to pay the deficiency tax assessed, including any surcharge or interest thereon, within the time prescribed for its payment justifies the imposition of delinquency interest.

While the Tax Reform for Acceleration and Inclusion ("**TRAIN**") Law now provides that "in no case shall the deficiency and delinquency interest prescribed [xxx] be imposed simultaneously", under RR No. 21-2018, the double imposition of both deficiency and delinquency interest under Section 249 prior to its amendment will still apply in so far as the period between the date prescribed for payment until December 31, 2017. *(Asian Transmission Corp. v. Commissioner of Internal Revenue, G.R. Nos. 242489 & 247397, November 8, 2023)*

B. COURT OF TAX APPEALS DECISIONS

1. The judicial claim for refund shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day (now 90-day) period, whichever is sooner.

Petitioner MD Rio Vista Agri-Ventures, Inc. ("**MD Rio**") sought the CTA's reconsideration of the Resolution dismissing the Petition for Review which was filed beyond the thirty (30)-day period from the CIR's inaction on its value-added tax ("**VAT**") refund claim. MD Rio argues that pursuant to the TRAIN Act, the reckoning date for filing of a judicial claim for refund of input VAT is from the date of receipt of the full or partial denial of the administrative claim by the CIR.

The Court ruled that despite the deletion of the phrase "or the failure on the part of the Commissioner to act on the application within the period prescribed above" found under the former Section 112(C), if the CIR fails to act within the ninety (90)-day period, such inaction should already be deemed a denial of the administrative claim pursuant to Section 7(a)(2) of Republic Act No. 1125, as amended by Republic Act No. 9282.[1] Thus, even if the CIR will act on a VAT claim for refund within the ninety (90)-day period but will be belatedly received by the taxpayer, the claim for refund, after the lapse of the ninety (90)-day period, should be considered as unacted and a deemed denial pursuant to Section 7 (a) (2) of Republic Act No. 1125, as amended. The taxpayer should, thus, begin to count the thirty (30)-day period within which to file a judicial claim for refund from the lapse of the ninety (90)-day period.

In this case, MD Rio filed its VAT refund claim of its excess and unutilized input VAT for the period January 1, 2021 to December 31, 2021 with the BIR on March 31, 2023. Applying the rule as discussed above, the CIR had until June 29, 2023, or ninety (90) days from MD Rio's filing of administrative claim, to decide on the claim for refund. As there was no adverse action received by MD Rio as of June 29, 2023, the administrative claim is considered denied pursuant to Section 7 (a) (2) of Republic Act No. 1125, as amended by Republic Act No. 9282. Counting another thirty (30) days from June 29, 2023, MD Rio had until July 29, 2023 to take judicial action. When MD Rio filed its Petition for Review on August 3, 2023, the Court had already lost its jurisdiction over the case. It is a settled rule that a judicial claim must be filed within a period of thirty (30) days after the receipt of respondent's decision or ruling; or, after the expiration of the ninety (90)-day period, whichever is sooner. *(MD Rio Vista Agri-Ventures, Inc. V. Commissioner of Internal Revenue, CTA Case No. 11247)*

2. In cases where the BIR conducts an audit without a valid letter of authority, or in excess of the authority duly provided therefor, the resulting assessments shall be void and ineffectual.

Petitioner Bohol JSL Enterprises received a LOA authorizing Revenue Officer Guzman ("**RO De Guzman**") and Group Supervisor Tohammie Yahya ("**GS Yahya**"), to examine petitioner's books of accounts for all internal revenue taxes for the taxable year 2010 ("**TY 2010**"). Then Regional Director Jose Tan ("**RD Tan**") issued and signed the said LOA.

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[1] SEC. 7. Jurisdiction. — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides — specific period of action, in which case the inaction shall be deemed a denial**.

Thereafter, petitioner received a letter notice ("**LN**") informing it that, based on the computerized matching of information from third party sources, it had an underdeclaration of local purchases. More than a year after, petitioner received the notice of informal conference ("**NIC**"), assessing it for deficiency income tax ("**IT**"), VAT and expanded withholding tax ("**EWT**"). Based on the NIC, RO De Guzman conducted the audit. Petitioner received the formal letter of demand ("**FLD**") finding it liable for deficiency IT, VAT, EWT, and compromise penalty.

Petitioner filed its protest on the FLD and requested a reinvestigation and submitted its supporting documents. Simultaneously, petitioner filed an Application for Compromise Settlement of the Deficiency Assessments for TY 2010 on the ground that there is reasonable doubt as to the validity of the assessment. It claimed that it did not receive the preliminary assessment notice ("**PAN**") prior to the receipt of the FLD.

Petitioner received an Amended PAN with attached Details of Discrepancies. Aggrieved with the findings therein, it filed its Reply to the Amended PAN. Dissatisfied with the findings, petitioner filed its Supplemental Protest and thereafter received respondent's letter denying the Supplemental Protest. Petitioner administratively appealed the said denial to the CIR. Petitioner received the Decision denying its administrative appeal and demanding the payment of the alleged tax deficiencies. Petitioner filed the instant petition before the CTA Special Second Division.

The CTA found that the CIR failed to serve the PAN on petitioner. To prove service by registered mail, the server shall make a written report under oath before a Notary Public setting forth the manner, place and date of service, and the name of the professional courier service company (or the Philippine Postal Corporation such in this case) who received the same and such other relevant information. Further, the registry receipt issued by the post office or the official receipt issued by the professional courier company (containing sufficiently identifiable details of the transaction) shall constitute sufficient proof of mailing and shall be attached to the case docket.

While a mailed letter is presumed or deemed received by the addressee in the ordinary course of mail, the same is merely a disputable presumption that may be controverted. Additionally, a direct denial of the receipt thereof shifts the burden upon the party favored by the presumption to prove that the addressee has indeed received the mailed letter.

When petitioner denied the PAN's receipt, respondent should have disputed the denial with evidence. Unfortunately, respondent merely alleged that he or she had validly served the notice through registered mail. Basic is the rule that mere allegation is not evidence and is not equivalent to proof. Although the BIR records bear the photocopy of the registry receipt of the PAN's mailing, the same does not conclusively prove that the addressee received the mail (containing the PAN).

With petitioner's denial, respondent could not rely solely on the photocopy of the registry receipt as proof of service because it is not in itself proof without being accompanied by the authenticating affidavit (or affidavit under oath) of the person who actually mailed the PAN. To the mind of the Court, the authentication by affidavit of the mailer is necessary for the service by registered mail to be regarded as clear proof of the PAN's service. Similarly, the registry receipt must contain sufficiently identifiable details of the transaction which shall constitute sufficient proof of mailing. Here, the photocopy of the registry receipt only indicates the letter/package number "14-204." It does not even show the exact date of the alleged mailing to petitioner nor does it reflect any other information which would aid the Court in determining the transaction details.

Since the valid service of the PAN on petitioner's part is part of the due process requirement in the issuance of a deficiency tax assessment, the non-observance thereof renders respondent's deficiency tax assessments void. *(Bohol JSL Enterprises, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10575, March 21, 2024)*

3. A reinvestigation, once granted by the BIR on the basis of newly discovered evidence or additional evidence, is in effect a continuation of the examination and audit of the taxpayer which necessitates the issuance of a new Letter of Authority.

On September 14, 2023, the CTA promulgated a Decision cancelling the BIR's deficiency VAT assessment against Racal Motorsales Corporation's ("**Racal MC**") due to the lack of authority of the revenue officer ("**RO**") who conducted the reinvestigation.

The CTA noted that the BIR, during trial, presented as witness RO Paul Simon A. Francisco to prove the finding of Racal MC's deficiency tax liability. The BIR insists that since Group Supervisor ("**GS**") Bryan Dela Cruz was still one of the ROs who conducted the reinvestigation pursuant to the said LOA, there is already substantial compliance with the law. He further claims that the FDDA should not be cancelled since it was made pursuant to the findings of RO Butial and GS Dela Cruz, which was only reviewed by RO Francisco pursuant to a Memorandum of Assignment ("**MOA**") dated March 9, 2017.

The CTA ruled that while it is true that RMO No. 08-06 provides that protested cases under re-investigation shall not be assigned to the same RO who handled the original investigation. A reinvestigation, once granted by the BIR, involves the re-evaluation of an assessment on the basis of newly discovered or additional evidence of the concerned taxpayer. As such, it is, in effect, a continuation of the examination and audit of the latter which necessitates the issuance of a new LOA in case the RO who would conduct such reinvestigation, is different from the one(s) named in the previously issued LOA. In other words, the new RO would be acting as a substitute or replacement of those named in the said LOA. Furthermore, RMO No. 43-90 explicitly provides that the continuation of audit by a revenue officer other than the officer named in a previous LOA, requires the issuance of a new LOA.

In this case, it is undisputed that while the investigation and audit of Racal MC's books of account for the period January 1, 2014 to June 30, 2014 was transferred to RO Francisco, no new LOA was issued. Thus, having been made without the required authority as contained in an LOA, the examination of petitioner's records by RO Francisco makes the disputed assessment a nullity. *(Racal Motorsales Corp. v. Bureau of Internal Revenue, CTA Case No. 9737 (Resolution), March 21, 2024)*

4. In criminal cases, when the Expenditure Method is resorted to in the determination of tax liabilities, it is not enough that the expenditures are proven, the plaintiff must likewise show proof of the likely source of income or funds which the accused used for his/her expenditures.

Accused Napoles is a registered taxpayer of Revenue District Office No. 43A. She filed her income tax returns ("**ITRs**") from 1999 to 2009 however, she failed to file her ITRs from years 2010, 2011 and 2012. Using the Expenditure Method, the BIR alleged that Napoles: (i) failed to supply correct and accurate information in the annual ITR for 2004, 2006, 2008, and 2009, (ii) substantially underdeclared income in the ITRs for 2004, 2006, 2008, 2009, 2010, 2011, and (ii) failed to file ITRs for 2011 to 2012. In 2010, accused Napoles' registration was cancelled due to "cessation of registration." The prosecution claims that accused has "undeclared income"

because based on accused's declarations in her ITRs, and the properties she acquired during the subject taxable years, it is improbable that accused was able to acquire the said properties even though she has not declared any income or substantial amount of income for the subject taxable years.

In acquitting the accused, the CTA ruled that when the Expenditure Method is resorted to in the determination of tax liabilities, it is not enough that the expenditures are proven, the plaintiff must likewise show proof of the likely source of income or funds which the accused used for his/her expenditures. Here, the prosecution failed to present evidence that the accused have sourced substantial income which she failed to declare in her ITR. Meanwhile, for the failure to file ITRs, the CTA acquitted the accused on the ground that since the registration of business was already cancelled, the accused is no longer automatically required to file an ITR, regardless of her gross income. Thus, for 2011 and 2012, accused is no longer required to file an ITR if her gross income does not exceed her total personal and additional exemptions. Since the prosecution failed to present proof of accused's likely source of income (and merely relied on the Expenditure Method), the accused cannot be held liable for her failure to file ITRs. *(People v. Napoles, CTA Crim. Case Nos. O-485, O-486, O-487, O-488, O-490, O-491, O-492, O-493, O-494, O-495, O-496 & O-498, [March 21, 2024)*

5. BIR lawyers may represent the Republic of the Philippines in cases of first instance or an original action independent from the principal action, such as a petition for certiorari.

Private respondent Teresa E. Sison ("**private respondent**") was charged for violation of Section 255 of the 1997 NIRC, as amended, before RTC-Branch 40, Dagupan City ("**RTC-Branch 40**"). Private respondent voluntarily appeared and posted a cash bond for her temporary liberty. Thereafter, RTC-Branch 40 promulgated the assailed decision which acquitted private respondent. RTC-Branch 40 received Petitioner Republic of the Philippines' ("**petitioner**") motion for reconsideration praying for the setting aside of the said Decision, which was denied thereafter. Petitioner then posted the present Petition for Certiorari.

While the Court agrees that the OSG is vested with the power to represent the Republic of the Philippines, petitioner, as represented herein by the BIR, was able to show the Memorandum of Agreement between the OSG and BIR. The OSG and the BIR agreed that the lawyers of the latter shall be the lead lawyer responsible to appear in cases of first instance before this Court and to prepare all pleadings, motions, orders, decisions, resolutions, communications, and other papers/documents in connection with the case. Considering that the petition for certiorari is a case of first instance, or an original action, independent from the principal action, the BIR lawyers may therefore represent the Republic of the Philippines. (*People of the Philippines v. Regional Trial Court, Branch 40, Dagupan City, CTA SCA Case No. 0001, October 24, 2023)*

6. It is not the issuance of the Reminder Letters which gives rise to a cause of action to affected taxpayers, but the BIR's issuance (i.e., Revenue Memorandum Circular No. 32-2022), which is the legal basis of the said Reminder Letters.

On March 29, 2022, the BIR issued RMC No. 32-2022 which clarifies the tax treatment of the PAGCOR, its licensees and contractees. Hence, Hann International Leisure, Inc. ("**HILI**") and BB International Leisure and Resort Development Corporation ("**BBI**") filed a *Petition for Certiorari and Prohibition [With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction*.

In its October 27, 2023 Decision, the CTA Special First Division held that only petitioner BBI has a cause of action to file the petition (the "**Assailed Decision**").

HILI now argues that the CTA, in its Assailed Decision, erred in ruling that only BBI has the cause of action to file the petition considering that by mere issuance of RMC No. 32-2022, it is already subjected to additional tax assessments; the issuance of the Reminder Letter or Demand Letter from the BIR is immaterial as there was already a demand from BIR to pay and remit the alleged tax assessments.

In this case, the CTA ruled that HILI had a cause of action.

A "cause of action" is defined as "the act or omission by which a party violates a right of another." The three (3) elements of a cause of action are: (1) a legal right accruing to the plaintiff, (2) a duty on the defendant's part to respect such right; and (3) an act or omission by the defendant violative of the right of the plaintiff or constituting a breach of the obligation of defendant to the plaintiff.

The CTA here found that all petitioners have a similar cause of action, and that all of the elements enumerated were met, i.e.,

1. that as PAGCOR-licensed gaming operators located in the Clark Special Economic Zone/Clark Freeport Zone ("**CSEZ/CFZ"),** they have the legal right of enjoying the tax exemptions provided for under RA No. 7227, as amended by RA No. 9400, or the Bases Conversion and Development Act
2. respondents have the correlative duty of respecting the tax exemption privileges enjoyed by petitioners; and
3. the issuance of RMC No. 32-2022 violates the tax exemption privileges of petitioner under the aforementioned laws.

It is not the issuance of the Reminder Letters which gave rise to the cause of action of petitioners, but the issuance of RMC No. 32-2022, which is the legal basis of the said Reminder Letters. *(BB International Leisure and Resort Development Corp. v. Bureau of Internal Revenue, CTA Case No. 10841, March 26, 2024)*

7. Revenue Officers must be armed with a valid Letter of Authority to conduct an assessment. Further, the CTA may enjoin the collection of taxes if such collection will jeopardize the interest of the government or the taxpayer.

In a motion for reconsideration, the CIR argues that prior to the promulgation of the case of *CIR v. McDonald's Philippines Realty Corp.,* prevailing jurisprudence did not require that revenue officers be armed with a Letter of Authority to conduct an assessment and that the CTA has no power to enjoin the collection of taxes by virtue of Section 218 of the Tax Code, as amended.

The CTA ruled that the ruling in the *McDonald's* case regarding the LOA's validity as a condition precedent to a lawful assessment is not novel. Further, as an exception to the non-injunction rule, the CTA cited Section 11 of Republic Act No. 1125, as amended by Republic Act No. 9282, which provides that CTA may enjoin the collection of taxes if such collection will jeopardize the interest of the government or the taxpayer. *(Commissioner of Internal Revenue v. Misamis Oriental II Rural Electric Service Cooperative, Inc., CTA EB Case No. 2519 (CTA Case No. 9732) Resolution), April 1, 2024)*

8. For a protest to be deemed timely filed, the party must clearly state if the same was made within 15 days from receipt of the adverse ruling of the District Collector or from payment, as a result of the adverse ruling.

Petitioner argues that the CTA has jurisdiction over this case because Section 11 of Republic Act No. 1125, as amended, provides that as long as the Commissioner of Customs ("**COC**") or the person obligated to act failed to do so, any interested person may file an appeal with the CTA after sufficient time had lapsed for the person to act on their matter. This argument, according to petitioner, is affirmed by the Supreme Court in *Nestle Philippines, Inc. v. Honorable Court of Appeals*, where it remanded the case to the CTA for hearing and reception of evidence relative to petitioner's claims for refund of alleged overpayment of customs duties, after the Collector of Customs' inaction for nearly six (6) years.

The CTA en banc held that the petitioner's reliance on the case of *Nestle* is misplaced. Said case is premised on the fact that a written protest is seasonably filed with the Collector of Customs under the Tariff and Customs Code of the Philippines. Petitioner's Amended Petition before the Court in Division was denied as it is bereft of any allegation that it made a timely protest with respondents. In this case, petitioner claims that on March 4, 2021, it filed its Protest and Appeal for Duty and Tax Refund (Protest) to the office of COC. Petitioner did not mention if the March 4, 2021 Protest with respondent COC was made within 15 days from receipt of the adverse ruling of the District Collector or from payment, as a result of the adverse ruling. Nothing in the petition intimates that a protest was made to the District Collector. Hence, it cannot be determined if the March 4, 2021 Protest was timely filed.

Nevertheless, even if petitioner seasonably filed a protest with the concerned officers, such that there is a supposed ruling issued by the District Collector that was "deemed affirmed" due to COC's inaction within 30 days from receipt of petitioner's Protest on March 4, 2021 or until April 3, 2021, the Court in Division would still have no jurisdiction over the Amended Petition for being time-barred. Under Section 13 of CAO No. 02-2020, petitioner may appeal to the CTA the COC's deemed affirmed ruling of the District Collector within 30 calendar days from April 3, 2021, or until May 3, 2021. Thus, petitioner had seven days from May 17, 2021, or until May 24, 2021, to file its Petition for Review.

Consequently, even if petitioner properly filed a Petition for Review instead of a Petition for Duty and Tax Refund, the Court in Division would still dismiss the same for having been filed out of time on June 25, 2021, or 32 days late. As correctly ruled by the Court in Division, the filing beyond the prescriptive period rendered the Court without jurisdiction over the subject petition.

Moreover, petitioner's repeated failure to comply with this Court's rules and lawful orders warrants the dismissal of the present petition. Accordingly, there is no compelling reason to reconsider, modify, or reverse the assailed Decision upholding the Court in Division's dismissal of petitioner's Amended Petition for Review for lack of jurisdiction, for insufficiency in form and substance, for failure to comply with the Court's orders, and for being time-barred. (*Goldmine Rice Marketing v. District Collector of Customs, CTA EB Case No. 2617, April 1, 2024, CTA Case No. 10559)*

9. The BIR's issuance of a Preliminary Collection Letter instead of a Final Demand of Disputed Assessment is not necessarily a deprivation of a taxpayer's right to due process, provided that the requirement of Section 228 of the NIRC, to be informed of the law and the facts on which the assessment is made, is fulfilled; On the application of the ten (10)-year period to access, unintentional or inadvertent errors do not necessarily constitute outright fraud to call for the application of the 10-year period.

For resolution in this case are two (2) Motions for Reconsideration ("**MR**"), as follows:

(a) In Jowelle's Auto Parts, Inc.'s ("**JAPI**") MR, it moves for the cancellation of all of the deficiency tax assessments issued by the Bureau of Internal Revenue ("**BIR**") for taxable years 2011 to 2013 on the ground that its right to due process was violated by the BIR's failure to observe the proper procedure prescribed by the relevant provisions of the NIRC, and its implementing regulations.

JAPI citing *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (the "**Avon case**"), argues that the BIR improperly issued a Preliminary Collection Letter ("**PCL**") instead of issuing a Final Decision on Disputed Assessment ("**FDDA**"). Petitioner considers this a transgression of its right to due process.

The CTA, however, found JAPI's reliance on the ruling of the Supreme Court in the Avon case misplaced. In the Avon case, the violation of due process was due to the issuance by the Commissioner of Internal Revenue of the assessments - the PAN and Final Assessment Notice ("**FAN"**) - making no reference to Avon's arguments in its protest against the PAN. This was interpreted by the Supreme Court as a deprivation of Avon's right to due process and declared the assessments null and void. In this case, however, there was no issue raised as to the contents of the PAN and the FAN that would call for the application of the ruling in the Avon case. Moreover, the Court in the assailed Decision, ruled that the official notices such as the Letter of Authority, the PANs, and the FLD, were all duly served to JAPI.

Accordingly, the CTA finds that the requirement of Section 228 of the NIRC, to be informed of the law and the facts on which the assessment is made, is fulfilled.

(b) In the BIR's MR, the BIR submits that the CTA erred in its conclusion that the BIR's right to assess petitioner's VAT liabilities for has already prescribed. On the contrary, respondent maintains that the ten (10)-year period to assess applies in the instant case because the discrepancies found in petitioner's VAT returns for the said periods constitute filing of false returns, which would justify the application of the said extraordinary period pursuant to Section 222(a) of the NIRC.

The CTA, however, ruled that the BIR failed to establish the existence of grounds warranting the application of the ten (10)-year period. According to the CTA, the records do not show that the BIR made any allegations of falsity or fraud that would justify the application of the ten (10)-year period to assess. Neither did the FANs/FLDs issued, nor the Answer filed by the BIR to the Petition for Review, refer to any allegation of fraud or falsity of the tax returns. In the recent case of *McDonald's Philippines Realty Corporation vs. Commissioner of Internal Revenue*, the Supreme Court provided a lengthy discourse on the difference between a "fraudulent return" and a "false return," effectively disregarding its previous ruling in the case of *Aznar vs. Court of Tax Appeals and Collector of Internal Revenue*. This latest jurisprudence enunciated the principle that unintentional or inadvertent errors do not necessarily constitute outright fraud to call for the application of the ten (10)-year period to assess. *(Jowelle's Auto Parts, Inc. v. Bureau of Internal Revenue, CTA Case No. 10018 (Resolution), April 2, 2024)*

10. Before evidence may come into being, it must be formally offered, and admitted by the Court.

On a Motion for Reconsideration, petitioner W.L. Segovia & Associates ("**WL Segovia**") claims that its Petition for Review was timely filed on August 24, 2020, since it received the CIR's Final

Decision on July 14, 2020, and it had until August 28, 2020 to file an appeal. Petitioner presented two documents – (a) receiving copy of the CIR's Final Decision stamped received by WL Segovia's counsel and (b) receiving copy of the Letter addressed to CIR showing that WL Segovia's counsel received a copy of the CIR's Final Decision on July 14, 2020 with courier receipts. On the other hand, the CIR argued that the documents should not be considered as they were not formally offered in evidence.

The CTA denied the Motion for Consideration. The CTA ruled that before evidence may come into being, it must be formally offered and admitted by the court. Thus, WL Segovia should have moved for a new trial for the introduction of the two documents as evidence. For failure to move for new trial, the documents should be ignored. *(W.L. Segovia & Associates v. Commissioner of Internal Revenue, CTA Case No. 10328 (Resolution), April 2, 2024)*

11. Since the CTA is vested with exclusive appellate jurisdiction to review by appeal the inaction of the CIR in cases involving refunds of internal revenue taxes, thus, it has jurisdiction to take cognizance of the Petition for Review.

The Rural Bank of San Miguel ("**RBSM**") obtained an emergency loan from petitioner Bangko Sentral ng Pilipinas ("**petitioner**") and executed several Promissory Notes with Trust Receipt and Deed of Assignment covering several parcels of land. RSBM failed to pay its obligations under the emergency loan and as a result, the mortgaged properties were foreclosed and sold. Petitioner acquired one of the foreclosed properties located in Cabanatuan City as the highest bidder in the aforesaid extrajudicial foreclosure sale. Petitioner allegedly paid capital gains tax ("**CGT**") on the aforesaid transaction but the BIR assessed petitioner of documentary stamp tax ("**DST**") as an additional tax on the foreclosure sale of the subject property. Petitioner paid the deficiency DST with a notation 'Payment under Protest,' on the contention that it is exempt from the payment of DST under the NIRC, as amended. Petitioner allegedly filed administrative claim for refund with the BIR's Revenue District Office in Cabanatuan City. Due to the alleged inaction of respondent on its claim for refund of DST, petitioner filed a Petition for Review with the CTA. In the Petition for Review, petitioner prayed that the Court render judgment ordering respondent to refund the DST paid for the property located in Cabanatuan City legally acquired by petitioner.

The CTA, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction. The appellate jurisdiction of the CTA is not limited to cases which involve decisions of respondent on matters relating to assessments or refunds. The second part of the provision covers other cases that arise out of the NIRC or related laws administered by the BIR. The decisions of respondent which are appealable to this Court is not limited only to cases involving disputed assessments (which entails the filing of a protest to the FAN) or refund claims, but also includes "other matters" arising under the said laws.

In the case of *Commissioner of Internal Revenue vs. Court of Tax Appeals (First Division), et al*., 26 the Supreme Court held that Section 7 of RA 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies on tax-related problems must be brought exclusively to the CTA. In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems.

P.D. No. 242 27 prescribes the procedures in settling administratively the disputes between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations ("**GOCCs**"). It is a general law that deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including GOCCs. Its coverage is comprehensive, encompassing

all disputes, claims and controversies. It has been incorporated in Executive Order No. 292, the Revised Administrative Code of the Philippines. On the other hand, RA No. 1125 is a special law dealing with a specific subject matter — the creation of the CTA, which shall exercise exclusive appellate jurisdiction over the tax disputes and controversies enumerated therein. Following the rule on statutory construction involving a general and a special law, RA No. 1125, on the jurisdiction of the CTA, constitutes an exception to PD No. 242.

Considering that under Section 7(a)(2) of RA No. 1125, as amended, the CTA is vested with exclusive appellate jurisdiction to review by appeal the inaction of respondent in cases involving refunds of internal revenue taxes, thus, the CTA has jurisdiction to take cognizance of the instant Petition for Review. *(Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue, CTA EB Case No. 2680, April 2, 2024, CTA Case No. 10106)*

12. Water utilities that have been granted franchise to operate as such by Presidential Decree No. 198 (he Provincial Water Utilities Act of 1973) are liable for the franchise tax imposed under Section 119 of the Tax Code.

Davao City Water District ("**DCWD**") paid forty percent (40%) of the basic franchise tax for taxable years 2003 to 2011. The payments were offered for the purpose of compromise and were made pursuant to RR No. 30-2002. In connection with these payments, on February 11, 2015, DCWD filed its Claims for Refunds.

DCWD argues, among others, that it is not subject to franchise tax on the ground that statutes which define Franchise Tax and water utilities who are subject to such tax under Section 119 of the Tax Code must be understood to mean water utilities formed under the Corporation Code of the Philippines. DCWD notes that it is a government instrumentality, and that franchise is not necessary for it to operate as water utility.

Here, the CTA *En Banc* ruled that DCWD is liable to pay franchise tax. The CTA *En Banc* found that the Court in Division correctly ruled that: (1) PD No. 198, otherwise known as the Provincial Water Utilities Act of 1973, serves both as petitioner's general or primary franchise and special or secondary franchise; and (2) public utilities, such as DCWD, require franchise in order to operate.

Clearly, DCWD holds a primary and secondary franchise by virtue of PD No. 198. At any rate, even if DCWD only holds either one of the primary or secondary franchise, the ruling in *Renato V. Diaz and Aurora Ma. F. Timbol v. The Secretary of Finance and the Commissioner of Internal Revenue* clearly provides that the term franchise refers not only to authorizations that Congress directly issues in the form of a special law, but also to those granted by administrative agencies to which the power to grant franchises has been delegated by Congress. As such, DCWD is covered by Section 119 of the NIRC, and is therefore liable to pay franchise tax.

To summarize, petitioner is engaged in the sale of services as a water utility. Such sale of services, as a general rule, would have been subject to VAT under Section 108 of the 1997 NIRC, as amended. However, the same provision provided for an exception under Section 119, where the entities enumerated therein are subject to franchise tax instead of VAT. Again, petitioner, as a water utility, is covered by the exception under Section 119, i.e., liable to pay two percent (2%) franchise tax rate, instead of the higher twelve percent (12%) VAT rate under Section 108.

13. The prescriptive period to file a criminal case for violations of the Tax Code is tolled only when the Information is filed before the CTA, and not when a complaint is filed before the Department of Justice ("DOJ")

On a Motion for Consideration, the plaintiff submits that the prescriptive period for violations of the Tax Code, as amended, being a special law, is interrupted by the filing of the complaint before the Department of Justice for purposes of conducting preliminary investigation, citing the case of *People of the Philippines v. Mateo A. Lee, Jr*. ("**Lee, Jr. case**") In this case, the plaintiff argued that since the Formal Letter of Demand/Final Assessment Notice became final and executory on February 23, 2014 and that plaintiff had five (5) years counted from such date within which to file a case against accused, the filing of the Joint Complaint-Affidavit before the DOJ on September 27, 2018 effectively tolled the running of the period of prescription.

The CTA ruled that the doctrine laid down in the *Lee Jr. case* (*i.e.,* the filing of the complaint before the DOJ suspends the running of the prescriptive period), applies only when the special law does not provide for a prescriptive period for the offense. In this case, the accused was charged with Willful Failure to Pay Tax under Section 255 of the Tax Code, in relation to Sections 253 and 256 thereof. Section 281 of the Tax Code provides that the prescriptive period of five (5) years for all violations of the provisions of the Tax Code, hence, the *Lee, Jr. case* does not apply. The prescriptive period to file a criminal case for violations of the Tax Code is tolled only when the Information is filed before the Court. *(People v. Del Rosario, CTA Crim. Case No. O-717 (Resolution), April 3, 2024)*

14. Failure to prove that the PAN was received renders the instant assessment null and void. Without proof of receipt, the PAN is deemed not received. Hence, the right to be informed of the assessments issued against has been violated.

Respondent Commissioner of Internal Revenue ("**respondent**") issued a letter of authority against petitioner for a tax investigation. In the said LOA, revenue officer ("**RO**") Bercasio and group supervisor ("**GS**") German were authorized to audit and examine petitioner's books of accounts and other accounting records to determine all types of deficiency internal revenue taxes, including documentary stamp tax ("**DST**").

Following the examination conducted by RO Bercasio and GS German, they recommended the issuance of a PAN against petitioner. They noted that the BIR's system showed petitioner's registered business address at "Winstone Compound, Felix Avenue, Sto. Domingo, Cainta, Rizal." Despite this, the ROs admitted that they continued sending all notices which are due to petitioner at JTKC Centre, 2155 Pasong Tamo, Makati City. Thereafter, a PAN was issued against petitioner and sent by registered mail to petitioner's alleged
address at "Winstone Cmpd. Felix Ave., Sto. Domingo, Cainta, Rizal." Petitioner denies receipt of such PAN, highlighting the actual envelope containing the copy of said PAN sent by registered mail to the aforementioned address, which was returned to sender (i.e., respondent) as petitioner had already "Moved Out" of said address.

A FLD with corresponding FAN was issued against petitioner, finding it liable for deficiency income tax, VAT, EWT, WTC, CWT, and compromise penalty. The FLD/FAN was served upon petitioner personally, and petitioner's employee-accountant, Ms. Buban. In a Letter respondent denied petitioner's request for reinvestigation and noted that the assessment had already become final and executory due to petitioner's failure to timely file a valid Protest to the FLD/FAN. This Letter was sent by registered mail to petitioner's alleged business address at "Winstone Cmpd. Felix Ave., Sto. Domingo, Cainta, Rizal." Accordingly, this Letter was similarly returned to its sender.

Petitioner, through Ms. Buban, sent another Letter addressing the assessments contained in the FLD/FAN. Nevertheless, respondent issued a Preliminary Collection Letter ("**PCL**") against

petitioner by registered mail. The PCL was addressed to "Winstone Compound, Felix Ave., Sto. Domingo, Cainta, Rizal." Respondent issued a Final Notice Before Seizure ("**FNBS**") against petitioner by registered mail. The FNBS was similarly addressed to "Winstone Compound, Felix Ave., Sto. Domingo, Cainta, Rizal." In response to the FNBS, petitioner sent a Letter alleging that there is no basis for the issuance of an FNBS since respondent failed to issue a PAN against petitioner thereby failing to accord the latter due process in assessment proceedings.

It is undeniable that a PAN is a mandatory requirement of due process in tax assessment proceedings. It offers an opportunity for a taxpayer to contest a pre-assessment before the BIR issues a final assessment. Thus, a PAN must actually be received by a taxpayer. Further, the taxpayer must be given a right to respond (i.e., a reasonable period to respond) to a PAN before a final assessment is issued against him or her.

A PAN as part and parcel of due process in tax assessment proceedings. Sec. 228 of the NIRC mandates petitioner to inform the taxpayer in writing of the law and the facts on which the assessment is made; otherwise, the assessment is void.

Petitioner's right to due process was clearly violated when it did not receive a PAN for the assessment. As duly shown by the BIR Records, respondent opted to send a copy of the PAN at petitioner's alleged registered business address at Winstone Compound, Felix Avenue, Sto. Domingo, Cainta, Rizal through registered mail. Thereafter, the sealed envelope wherein the PAN is enclosed, which is addressed to petitioner's alleged registered business address at Winstone Compound, Felix Avenue, Sto. Domingo, Cainta, Rizal, and which is covered by Registry Receipt No. 10324, was "returned to sender" for reason that the addressee has "Moved Out." This clearly shows that petitioner was not actually served with a PAN.

Upon receipt of such notification from the Post Office that the PAN was not actually received by petitioner, respondent should have taken effort to actually serve petitioner a copy of the PAN before proceeding with the issuance of the FLD/FAN. By immediately proceeding with the issuance of the FLD/FAN, respondent clearly violated petitioner's right to due process as the latter was not given a chance to refute a pre-assessment while the audit investigation was ongoing and before a final assessment was issued against it.

Worse, respondent already knew that petitioner had another business address from which the BIR and its officers were able to solicit responses from the notices, queries, and correspondences they sent to petitioner. In a Memorandum prepared by RO Bercasio and GS German, they noted that while petitioner's registered business address at the BIR system is at Winstone Compound, Felix Avenue, Sto. Domingo, Cainta, Rizal, they were able to communicate with petitioner through its authorized representatives at JTKC Centre, 2155 Pasong Tamo, Makati City, which is why they also sent notices and correspondences issued prior to the PAN to said address.

Accordingly, the deficiency tax assessments against petitioner are null and void for having been issued in violation of the due process requirements under the law.

Additionally, once receipt of the PAN is denied by the taxpayer, it becomes incumbent upon respondent to prove by preponderance of evidence that the PAN was actually received by the taxpayer. Once receipt of the assessment notices is denied and controverted by the taxpayer, the burden of proof is shifted to the CIR to prove through a preponderance of evidence that the taxpayer, or his or her authorized representative, indeed received the subject assessment notices. Failure to prove that the PAN was indeed received by the respondent renders the instant assessment null and void. Without proof of receipt, the PAN is deemed not received by

respondent. Hence, respondent's right to be informed of the assessments issued against it has been violated. *(JTKC Land, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9508, October 18, 2023)*

15. For cases prosecuted before the Court of Tax Appeals, it is the institution of a criminal action through the filing of an Information — not the filing of a complaint before the DOJ — that interrupts the running of the prescriptive period.

On a Motion for Reconsideration, the plaintiff argues that its right to prosecute the accused has not yet prescribed as the filing of the Joint Complaint-Affidavit before the DOJ on October 23, 2020 has interrupted the five (5)-year prescriptive period for criminal tax offenses.

The Court ruled that by virtue of Section 281 of the NIRC of 1997, as amended, the prescription of the offense of willful failure to pay tax is counted from the time of the offense's commission and is interrupted by the institution of judicial proceedings in court for its prosecution. Thus, criminal tax cases shall nevertheless prescribe if more than five years have lapsed from the time of commencement of the investigation before the DOJ, *i.e.*, the filing of a complaint-affidavit, up to the filing of the Information in Court. In this case, where accused is charged with willful failure or refusal to pay his assessed tax deficiencies, the five-year prescriptive period began to run when the assessment became final, executory and demandable after February 4, 2016, *i.e.*, the last day of the thirty (30)-day period for filing a valid protest reckoned from accused's receipt of the FLD and FAN on January 5, 2016. Counting five years therefrom, the prescriptive period to institute the criminal action lapsed on February 4, 2021, or almost two years before the actual filing of the Information on December 5, 2022. *(People v. Bartolome, CTA Crim. Case No. O-984 (Resolution), April 4, 2024)*

16. Service of the FLD/FAN may be made through registered mail, and there is created a disputable presumption that such assessment notices were received by the addressee in the regular course of the mail. The estimated turnaround time for such registered mail to be delivered is seven (7) working days.

An Information was filed with the RTC of Tagum City, Davao del Norte, charging accused-appellee Julieta Ariete ("**accused-appellee**") for willful failure to pay taxes under Section 255 of the NIRC. As alleged in the Joint Complaint-Affidavit filed with the Office of the City Prosecutor, an examination of accused-appellee's books of accounts and other accounting records for all internal revenue tax liabilities for taxable year 2007 was conducted by virtue of a LOA. Consequently, a PAN and a Formal Letter of Demand with Details of Discrepancy and Assessment Notices ("**FLD/FANs**") were both "issued and personally served" to accused-appellee.

Plaintiff-appellant alleged that in view of accused-appellee's failure to file an administrative appeal within thirty (30) days from receipt of the FLD/FANs, the assessment became final and executory. However, despite receiving the notices and demands to pay, accused-appellee's tax liabilities remained uncollected, prompting the BIR to file a criminal complaint with the DOJ. The investigating prosecutor issued a Resolution finding probable cause and recommended that an Information be filed against accused-appellee for violation of Section 255 of the NIRC. The court a quo issued the first assailed Order dismissing the case on the ground of prescription.

While the Court agrees with the court a quo that the case has already prescribed, the case cited by the court a quo, *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*

and QL Development, Inc. ("**QLDI case**"), which pertains to a disputed assessment, is inapplicable in the instant criminal case for violation of the Tax Code. The Supreme Court explained in the QLDI case that Section 203 provides a three (3)-year prescriptive period to assess deficiency taxes. As an exception, Section 222 provides a ten (10)-year prescriptive period to assess deficiency taxes in the case of a false or fraudulent return with intent to evade tax or of failure to file a return, and a five (5)-year prescriptive period to collect following the assessment. On the other hand, Section 223 refers to the instances when the running of the statute of limitations provided in Sections 203 and 222 is suspended.

Undoubtedly, the prescriptive periods provided under Sections 203 and 222 and the suspension of the prescriptive periods under Section 223 apply only to the assessment and collection of internal revenue taxes, but not in a criminal case where the prescriptive period for filing an action for the violation of any provision of the NIRC. In the instant case, the Information filed against accused-appellee was for willful failure to pay taxes under Section 255 of the NIRC. As to what interrupts prescription, Section 281 of the NIRC provides that it is "when proceedings are instituted against the guilty persons." This is explained in *Lim* as the time when the Information is filed with the Court.

From the foregoing, when the offense charged involves a taxpayer's refusal to pay the taxes due, the five (5)-year prescriptive period begins to run from the time the payment period had lapsed without any payment or appeal being made by the taxpayer. Prescription continues to run until the filing of the Information in Court.

In the Joint Complaint-Affidavit, it was alleged that the FLD/FANs were "issued and personally served" to accused-appellee on December 15, 2010, and that in view of accused-appellee's failure to file an administrative appeal within thirty (30) days from receipt of the FLD/FANs, the assessment became final and executory pursuant to Section 228 of the NIRC. Counting thirty (30) days from receipt of the FLD/FANs, the assessment attained finality on January 15, 2011.

The offense is committed only after receipt is coupled with refusal to pay the tax within the allotted period. Thus, plaintiff-appellant had five (5) years from January 15, 2011, or until January 15, 2016, to file the Information in court. The Information dated February 1, 2023, was filed with the court a quo only on February 10, 2023. Clearly, the government's right to institute a criminal action against accused-appellee had already prescribed for more than seven (7) years when the Information was filed on February 10, 2023.

While it was alleged in the Joint Complaint-Affidavit that the FLD/FANs were "personally served" to accused-appellee, the veracity of the said claim could not be determined by the Court since upon perusal of the records, the FLD/FANs dated December 15, 2010 were sent to accused-appellee through registered mail. The registry return receipt was signed by accused-appellee but was left undated. Under prevailing regulations, service of the FLD/FAN may be made through registered mail, and there is created a disputable presumption that such assessment notices were received by the addressee in the regular course of the mail. The estimated turnaround time for such registered mail to be delivered is seven (7) working days.

Even if the Court assumes that the FLD/FANs were received by accused-appellee thirty (30) days from its mailing, or on January 14, 2011, accused-appellee failed to question or protest the FLD/FANs within thirty (30) days therefrom, or until February 13, 2011. Thus, the FLD/FANs became final and executory on February 14, 2011. Plaintiff-appellant had five (5) years from February 14, 2011, or until February 14, 2016, to file the Information before the court a quo. Just

the same, the Information filed on February 10, 2023, is beyond the five-year prescriptive period. *(People v. Ariete, CTA Crim. Case No. A-18 (Criminal Case No. 30153))*

17. When the BIR rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must not be left unaware on how the BIR or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment. Otherwise, the tax assessments are void for violation of due process.

Marina Square Properties, inc. ("**MSPI**") argues that the deficiency tax assessments against it for taxable year 2014 are null and void on the ground that: (1) the BIR's right to assess its alleged deficiency value-added tax, expanded withholding tax, withholding tax on compensation, and documentary stamp tax for taxable year 2014 had already prescribed, and (2) the BIR's deficiency tax assessments against it are devoid of factual and legal bases.

On the first point, the CTA ruled that the BIR's period to assess and collect deficiency taxes has already prescribed in part. The CTA noted that for purposes of applying Section 203 (*Period of Limitation upon Assessment and Collection*) of the Tax Code, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day, and that the reckoning points of the three (3)-year prescriptive period vary depending on the tax type.

On the second point, the CTA ruled that the subject assessments are void for having been issued in violation of MSPI's right to administrative due process. Section 3 of RR No. 12-99, as amended by RR No. 18-2013 prescribes that as part of due process in the issuance of tax assessments, the PAN, FLD/FAN, and FDDA must, respectively, state, among others, the facts and the law on which the assessment is based; otherwise, the FLD/FAN and/or FDDA shall be void.

When the BIR rejects the taxpayer's explanations, he must give some reason for doing so and the particular facts and law upon which his conclusion are based, and those facts must appear in the record. As a corollary, the concerned taxpayer must not be left unaware on how the BIR or his duly authorized representatives appreciated the explanations or defenses raised in connection with the assessment.

In this case, the CTA noted that in the FLD issued by the BIR, the BIR did not address any of the explanations made by MSPI in its protest letter to the PAN — a glaring indication that the BIR did not consider the same when it issued the subject FLD. In other words, the BIR merely reiterated the same findings as stated in the PAN, without giving any reason for rejecting the refutations and explanations made by MSPI in its protest letter. Consequently, MSPI was left unaware on how the BIR appreciated the explanations or defenses MSPI raised against the subject PAN, in clear violation of MSPI's right to administrative due process. Similarly, in the FDDA, the BIR did not address any of the refutations or explanations made by MSPI in its protest letter, and merely reiterated and/or copied verbatim what was in the assailed FLD and the Details of Discrepancies attached thereto, indicating that the BIR did not consider petitioner's refutation, explanations or defenses when it issued the subject FDDA.

Accordingly, the CTA found that the tax assessments cannot be enforced against MSPI, and the BIR has no right to collect the same. *(Marina Square Properties, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10349, April 11, 2024)*

18. It is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund." It is thus the taxpayer who ultimately decides what documents ought to be presented before the BIR to substantiate its VAT refund claim.

Manulife Data Services, Inc. ("**Manulife**") operates as a regional operating headquarters ("**ROHQ**") and is allowed to render qualifying services to its affiliates and related parties in the Asia-Pacific region and in other foreign markets. Manulife is registered as VAT entity. During calendar year 2018, Manulife generated both VAT zero-rated sales and VATable sales. On July 14, 2020, Manulife filed its administrative claim for VAT refund for calendar year 2018. After initially receiving the application, revenue officer (RO)Jovelyn Borromeo, repudiated the receipt of the VAT refund application and required petitioner to retrieve its entire filing on the verbal notice that certain documents allegedly did not conform to RMC No. 47-2019. On July 30, 2020, Manulife sent a letter to the CIR to question the action of RO Borromeo. On September 23, 2020, Manulife received a letter dated August 17, 2020, from the CIR affirming RO Borromeo's actions. Thus, Manulife considered the August 17, 2020 Letter as a denial of its administrative VAT refund claim and filed a Petition for Review on October 22, 2020.

The Court ruled that the BIR has no discretion to determine whether the supporting documents submitted by a taxpayer are complete or not and thus dictate the starting point of the period given to respondent to decide a VAT refund claim. Otherwise, the CIR will have uncontrolled power to delay the period to decide administrative claims and ultimately bar the filing of judicial claims. Further, it is the taxpayer who has that right and the burden of proving any and all documents that would support his claim for tax credit or refund. Here, Manulife, in its July 2020 letter, already manifested that its VAT refund application already contains all of the supporting documents necessary to substantiate its VAT refund claim. Further, the Court considered the August 2020 Letter of the CIR as an effective denial of Manulife's VAT refund claims. Thus, when Manulife received said denial Letter on September 23, 2020, it had 30 days or until October 23, 2020, to institute a judicial claim before this Court. Thus, when Manulife filed the instant Petition on October 22, 2020, the same was timely instituted.
(Manulife Data Services, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10381, [April 11, 2024)

19. When the assessment is comprised of several issues, only the particular issues validly protested are considered disputed; while the particular issues undisputed become final, executory and demandable.

The BIR issued a letter of authority authorizing Revenue Officer (RO) Villablanca/Group Supervisor Arcinue to examine petitioner's books of accounts and other accounting records for all internal revenue taxes. Respondent Commissioner of Internal Revenue ("**respondent**") issued the PAN informing petitioner that after investigation, there has been found due from the latter deficiency income tax, VAT, EWT, and WTC, including interests. Subsequently, respondent issued the FLD with Details of Discrepancies and Assessment Notices, assessing petitioner of deficiency income tax, VAT, EWT, and WTC, including interests, for the same taxable year. Petitioner then filed a request for reconsideration with the BIR.

Section 228 of the NIRC provides that the assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and

regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

What constitutes as a valid protest must have the following details: (i) the nature of protest whether reconsideration or reinvestigation, specifying newly discovered or additional evidence he intends to present if it is a request for reinvestigation, (ii) date of the assessment notice, and (iii) the applicable law, rules and regulations, or jurisprudence on which his protest is based.

Accordingly, failure to comply with foregoing renders the protest without force and effect and, consequently, void. Furthermore, when the assessment is comprised of several issues, RR No. 12-99, as amended by RR No. 18-2013, gives the taxpayer the discretion which particular issue/s in the assessment to protest. Thus, if a particular issue is not protested, the same is considered undisputed and as such, the assessment attributable thereto, becomes final, executory and demandable. The said RR also provides that in protesting a particular issue, the same is likewise bound by the requirement of stating the facts, the applicable law, rules and regulations, or jurisprudence in support thereof. Such being the case, failure to provide the same renders it undisputed and thus becomes final, executory and demandable. A perusal of the undated request for reconsideration on the FLD shows that it indeed indicates that it is a request for reconsideration, and the date of the assessment notice, in compliance with the form and manner of a valid protest.

Thus, with respect to the foregoing undisputed items, the same are already final, executory and demandable. Verily, a tax assessment that has become final, executory and enforceable for failure of the taxpayer to assail the same as provided in Section 228 of the NIRC of 1997 can no longer be contested.*(Powernet Systems Corp. v. Commissioner of Internal Revenue, CTA Case No. 10383)*

20. The scope of the CTA's review covers factual findings. The CTA is a court of record and is required to conduct a formal trial (trial de novo) where the parties must present their evidence accordingly, if they desire, to the CTA.

In the Motion for Partial Reconsideration filed by the CIR, the CIR disagrees with the CTA's conclusion that the BIR is wrong in disallowing P2,525,107.63 worth of input taxes and that only P191,270.32 worth of input taxes was correctly disallowed.

The CIR argues that: *first*, Eurofragance failed to comply with the substantiation and invoicing requirements; *second*, most of Eurofragance's submitted official receipts and invoices showed that the countersignatures were different from the signatures of the original issuer; and *third*, assuming arguendo that the Notarized Certifications from suppliers can be given credit, the same should have been presented by Eurofragance to the BIR at the administrative level under the doctrine of exhaustion of administrative remedies.

The CTA ruled that the argument raised by the CIR, particularly on the substantiation of input VAT, has already been passed upon and discussed at length by the Court. Any further discussion on this issue will only be unnecessarily repetitive and would not serve any useful purpose. The CTA reiterates that the filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality

or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity.

Similarly, the BIR ruled that the CIR's invocation of the doctrine of exhaustion of administrative remedies in assailing the CTA's admission of the notarized certifications by Eurofragance's suppliers which, according to the CIR, should have been presented by Eurofragance before the BIR at the administrative level, must fail.

Section 8 of Republic Act No. 1125, as amended by Republic Act No. 9282, categorically provides that 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 CTA to take such evidence into consideration. As evidence is considered and evaluated again, the scope of the CTA's review covers factual findings. *(Eurofragance Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10169, March 19, 2024)*

21. The perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.

On March 22, 2013, on the basis of a third-party information, Petitioner Ronaldo Cruz's (Petitioner) spouse received a letter notice dated March 18 2013 from the CIR for alleged discrepancies in the VAT returns for taxable year 2011. Notably, Petitioner did not receive any LOA from the CIR. Despite the absence of a LOA, the Revenue Officer continued the audit investigation/examination against Petitioner. On May 7, 3024, a distant relative/niece of the Petitioner received a copy of the Assessment Notice with FLD for deficiency income tax and VAT dated May 19, 2014 for the taxable year 2011. Petitioner actually received the Assessment Notice and FLD from his distant relative/niece on June 2, 2014. On June 26, 2014, Petitioner filed a letter to protest to and request for reinvestigation of the said final assessment notice. Petitioner's request for reinvestigation was granted. On August 25, 2015, Petitioner personally received the Warrant of Distraint and/or Levy ("**WDL**") dated August 18, 2015. Subsequently, the BIR annotated a tax lien with the Registry of Deeds in the 2 properties registered under the Petitioner's name. The titles to the properties were eventually cancelled and replaced with titles in the name of the Republic of the Philippines. The BIR then proceeded with the sale at public auction and alleged that since no bidder appeared, the subject properties were forfeited in favor of the Government. The Petitioner filed a protest on April 5, 2017. On November 17, 2020, Petitioner filed a Petition for Review arguing that the assessment is void for failure to comply with the mandated General Audit Procedures and Documentation. Thus, the forfeiture of the real properties in favor of the Government is also void.

The CTA ruled that the WDL is an implied denial of the protest and is considered a proof of finality of the assessment. Further, the issuance of the WDL may constitute as an act of CIR on "other matters" arising under the Tax Code or related laws administered by the BIR. Whether considered as a final assessment or as other matters, the taxpayer's remedy to a WDL is to file an appeal with the CTA within thirty (30) days after receipt of the WDL. Here, Petitioner received the WDL on August 25, 2015. Thus, Petitioner only has until September 24, 2-15 within which to elevate his appeal to the CTA. However, Petitioner only filed his Petition for Review on November 17,

2020, or more than four (4) years beyond the reglementary period provided by the law, thereby rendering the CTA without jurisdiction to hear the petition. The CTA can also no longer resolved the issue on the alleged nullity of the assessment as it does not possess the authority to adjudicate the controversy, due to the Petitioner's failure to comply with the thirty (30)-day period to appeal. *(Cruz v. Commissioner of Internal Revenue, CTA Case No. 10404, April 11, 2024)*

22. As a void assessment bears no valid fruit, the proceedings that emanate therefrom are equally a nullity. Conversely put, since petitioners' assessment of respondent is void for a clear violation of the due process requirements, the amounts erroneously paid should be refunded in the latter's favor.

Revenue Region No. 8 of the BIR issued a LOA authorizing Revenue Officer ("**RO**") Isturis and Group Supervisor ("**GS**") Obsequio to examine respondent's books of accounts and other accounting records for the period covered April 1, 2015 to March 31, 2016. Petitioners issued a First Request for Presentation of Records in relation to the LOA. This was followed by a Request for Submission of Additional Documents issued through the same RO. In compliance, respondent transmitted pertinent documentation via its letters. Respondent received a 48-Hour Notice. It stated that the BIR's investigating office uncovered respondent's failure to comply with the following requirements as a VAT-registered person.

Respondent refuted the items in the assessment. It requested that the findings be set aside for lack of factual and legal bases. Petitioner issued a letter directing respondent to pay the related deficiency VAT on its intercompany sales for the latter's supposed failure to issue VAT official receipts or invoices. Respondent received a Five (5)-Day VAT Compliance Notice ("**VCN**") asking petitioner anew to pay the deficiency VAT based on a revised computation.

The issued LOA is void for covering more than one taxable period. It bears restating that the BIR has repeatedly enunciated its policy on this matter and in the same tenor. Both RMO Nos. 36-99 113 and 19-2015 114 require clearly and consistently the issuance of one LOA per taxable year or period to be audited. As previously established, for purposes of taxation, respondent follows the calendar year. In such instance, one taxable year would consist of the period from January 1 of one year until December 31 of the same year. The issued LOA covering the period from April 1, 2015, until March 31, 2016, thus covers portions of two TYs, contrary to the guidelines enunciated in the above case. Thus, in line with the disquisitions in the above-quoted case, the LOA issued in the present case are similarly void. It is a well-settled rule that a void assessment bears no valid fruit. If an invalid assessment bears no valid fruit, with more reason will no such fruit arise if there was no assessment in the first place. In turn, none of the proceedings and issuances that trailed the first LOA can be afforded validity. This reason alone overthrows petitioners' 48-Hour Notice, VCN, Closure Order, and the BIR's right to retain the amount paid by respondent under protest.
(Commissioner of Internal Revenue v. Sofgen Holdings Limited-Philippine Branch, CTA EB Case No. 2695 (CTA Case No. 9691), April 12, 2024)

a) REVENUE REGULATIONS

1. REVENUE REGULATIONS NO. 3-2024 [April 11, 2024] - Implementing the Amendments Introduced by Republic Act No. 11976, Otherwise Known as the "Ease of Paying Taxes Act," on the Relevant Provisions of Title IV — Value-Added Tax (VAT) and Title V — Percentage Tax of the National Internal Revenue Code of 1997, as Amended (Tax Code)

The RR amends certain provisions of RR No. 16-2005 or the "Consolidated Value-Added Tax Regulations of 2005." Under RR No. 3-2024, the following words, phrases, or actions shall now be uniformly applied to the provisions affected under RR No. 16-2005 and its subsequent amendments:

A. **Gross Sales** - all references to "gross selling price," "gross value in money," and "gross receipts" shall now be referred to as **gross sales**.

B. **Invoice** - all references to "sales/commercial invoices" or "official receipts" shall now be referred to as **invoice**.

C. **Billings for sales of service on account -** all references to **receipts or payments** which was previously the basis for the recognition of sales of service under shall now be referred to as **billing** or **billed** whichever is applicable.

D. **VAT-exempt threshold -** all provisions mentioning the VAT-exempt threshold of three million pesos (P3,000,000.00) shall now be read as ***"the amount of VAT threshold herein stated shall be adjusted to its present value every three (3) years using the Consumer Price Index (CPI), as published by the Philippine Statistics Authority (PSA)."***

E. **Filing and payment.** — The filing of tax return shall be done electronically in any of the available electronic platforms. However, in case of unavailability of the electronic platforms, manual filing of tax returns shall be allowed. For tax payment with corresponding due dates, the same shall be made electronically in any of the available electronic platforms or manually to any AABs and RCOs.

In accordance with the changes above, the RR also amended specific provisions pertaining to the Sale or Exchange of Service under Section 108 of the Tax Code under RR No. 16-2005, specifically Sections 4.108-1, 4.108-4, and 4.108-6 by changing the definition of gross receipts to gross sales and removing the concept of constructive receipt under Section 4.108-4.

Section 4.109(B)(cc) of RR No. 16-2005 was likewise amended to qualify that VAT exempt transactions pertaining to the sale or lease of goods or properties or the performance of services other than the transactions mentioned under Section 4.109(B), the gross annual sales of which do not exceed the amount of three million pesos (P3,000,000.00) shall be VAT exempt provided that the threshold shall be adjusted to its present values using the CPI, as published by the Philippine Statistics Authority every three (3) years.

Section 4.110-9 was introduced allowing a seller of goods or services to deduct the output VAT pertaining to uncollected receivables from its output VAT on the next quarter, after the lapse of the agreed upon period to pay provided that the seller has fully paid the VAT on the transaction.

Under Section 4.112-1 pertaining to the procedure for claims for refund/tax credit certificate, a risk-based approach in the verification and processing of VAT refund claims was introduced wherein VAT refund claims shall be classified into low, medium, and high-risk, with the risk classification based on the amount of VAT refund claim, tax compliance history, frequency of filing vat refund claims, among others. Medium and high-risk claims shall be subject to audit or other verification processes in accordance with the BIR's national audit program for the relevant year.

2. **REVENUE REGULATIONS NO. 4-2024** [April 11, 2024] – Implementing Sections 22, 34, 51(A)(2)(e), 51(B), 51(D), 56(A)(1), 58(A), 58(C), 58(E), 77, 81, 90, 91, 103, 114, 128, 200 and 248 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 11976, Otherwise Known as the "Ease of Paying Taxes Act", on the Filing of Tax Returns and Payment of Taxes and Other Matters Affecting the Declaration of Taxable Income

The RR provides that filing of tax returns shall be done electronically in any of the available electronic platforms. However, in case of unavailability of the electronic platforms, manual filing of tax returns may be allowed. For tax payments, the same shall be made either electronically in any of the available electronic platforms or manually to any Authorized Agent Banks ("**AAB**") and Revenue Collection Officers ("**RCO**").

Electronic filing and payment shall be done using the BIR's electronic platform (Electronic Filing and Payment System/eBIRForms), ePayment Channels of AABs (*e.g.*, LinkBiz, PesoNet, UPay, MyEG, etc.) and Authorized Tax Software Providers ("**ATSP**") (for specific returns as certified by BIR). ATSP refers to an individual or organization whose business is to render electronic tax filing and/or tax payment services to taxpayer-clients by offering third-party solutions tested and certified by BIR, that is, an electronic tax return filing and/or payment solution.

Manual filing and payment refer to submission and payment done over the counter with any AAB or RCO of the BIR. The RCO can accept payment in cash up to PhP20,000, while for check payment, regardless of the amount. AABs and RCOs shall only accept tax payments manually after the taxpayers have already electronically filed their tax returns, unless an advisory is issued allowing manual filing.

The civil penalty of 25% of the amount due in case of filing a return with an internal revenue officer other than those with whom the return is required to be filed is no longer imposed.

Overseas Contract Workers and Overseas Filipino Workers are not required to file an income tax return.

The RR also amended RR 2-98 by repealing Section 2.58.5 on the additional requirements for deductibility of certain income payments and amending Section 2.57.4 by providing that the obligation of the payor to deduct and withhold tax arises at the time an income has become payable. The term "payable" refers to the date the obligation becomes due, demandable or legally enforceable. The obligation of the payor to deduct and withhold the tax arises at the time an income payment is accrued or recorded as an expense or asset, whichever is applicable, in the payor's books, or at the issuance by the seller of the sales invoice or other adequate document to support such payable, whichever comes first.

3. **REVENUE REGULATIONS NO. 5-2024** [March 22, 2024] – Implementing Sections 76(C), 112(C), 112(D), 204(C), 229, and 269(J) of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act", on Tax Refunds

A. VAT Refund

RR No. 5-2024 implements the risk-based approach to verification of VAT refund claims classifying them into low-, medium- and high-risk claims depending on the amount of the claim, the frequency of filing, tax compliance history, and other risk factors:

Risk Level	Scope of Verification of Sales	Scope of Verification of Purchases
Low	No Verification	No Verification
Medium	At least 50% of the amount of sales and 50% of the total invoices/receipts issued including inward remittance and proof of VAT zero-rating	At least 50% of the total amount of purchases with input tax claimed and 50% of suppliers with priority on "Big-Ticket" Purchases.
High	100%	100%

Complete documentary requirements for VAT refund shall be submitted regardless of the identified risk level. The scope of verification are subject to the following limitations:

The following are considered as high-risk:

- First-time claimants and 3 succeeding VAT refund claims
- Succeeding claim filed, in case of full denial of a claim
- Claims by VAT-persons whose BIR registration had been canceled due to retirement, cessation of business, or cessation of status

The following requires full verification:

- For medium-risk claims, verification shall be adjusted to 100% if the assigned Revenue Officer found at least 30% disallowance of the amount of VAT refund claim
- For claims classified as low-risk for the three (3) consecutive filing of VAT refund, the 4th claim shall be subject to full verification regardless of the risk classification;

The following are the limitations:

- For taxpayer-claimants filing on a quarterly basis, the risk classification shall be made for every filing
- Other limitations that may be identified by the CIR through revenue issuances.

The following are the relevant periods

- The 90-day period to process and decide on the claim shall start from the "filing" of the claim for VAT refund. The application is deemed "filed" upon the submission of the invoices and/or receipts and other required documents.
- In case of full or partial denial, the taxpayer may appeal to the CTA from the receipt of the decision denying the claim.

- If the claim is not acted upon within the 90-day period, the taxpayer may appeal to the CTA within 30 days after the expiration of the 90-day period, or forgo the judicial remedy and await the final decision of the CIR.

B. Credit/Refund of Unutilized Excess Income Tax Credit

	Regular Claims	Dissolution or Cessation of Business
Coverage	Claims for income tax credit/refund of taxpayers of "going-concern" status who have chosen the option to apply for tax credit or refund the excess income tax in their AITRs.	Refund of excess income credits for taxpayers undergoing closure
Requisites	• The claim must be filed within 2 years from the date of filing of the Annual Income Tax Return (AITR); • The income was included as part of the gross income declared in the AITR; and • The fact of withholding is established by a copy of the withholding tax certificate duly issued by the payor to the payee showing the amount of income payment and the amount of tax withheld.	
Irrevocability of option to "Carry-over"	Irrevocable for that taxable period and no application for cash refund or issuance of Tax Credit Certificate (TCC) shall be allowed.	Revocable.
Period for the CIR to decide	180 days	Within two (2) years from the date of the dissolution or cessation of business (i.e., submission of the Application for Cancellation (BIR Form No. 1905) together with the complete documentary requirements).
Other matters	If the taxpayer chose the option to be issued a Tax Credit Certificate (TCC) or refund but carried forward the said amount to the succeeding taxable year, the claim for tax credit or refund may be denied, but the carried-over amount may be allowed as credit against future income tax liabilities.	The approved refund, if any, shall be released only after completion of the mandatory audit of all internal revenue tax liabilities covering the immediately preceding year and the short period return and full settlement of all tax liabilities relative to cessation or dissolution of the business and any existing tax liabilities prior to the cessation or dissolution of the business.

C. Refund of erroneously or illegally collected tax

The CIR may (a) credit/refund taxes erroneously or illegally received or penalties imposed without authority, (b) refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and (c) redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction.

The claim shall be filed within 2 years after the payment of the tax or penalty, provided, however, that a return filed showing an overpayment shall be considered as a written claim for credit/refund. The processing period for the tax credit/refund shall be 180 days from the date of the submission of complete documents up to the payment of the approved refund or receipt of the TCC.

In case of full or partial denial, the taxpayer may appeal to the CTA within 30 days from the receipt of the denial. In case of inaction by the CIR within the 180-day period, the taxpayer-claimant may opt to (a) appeal to the CTA within the 30-day period after the expiration of the 180 days required by law to process the claim; or (b) forego the judicial remedy and await the final decision of the CIR. When the BIR failed to render a decision within the 180-day period and the taxpayer-claimant opted to seek for judicial remedy within thirty (30) days from such period, administrative claim for refund shall be considered moot and shall no longer be processed.

D. <u>Judicial claim for credit/refund</u>

No judicial claim shall be maintained until:

a. A claim for refund or credit has been duly filed with the CIR; and
b. there is a full or partial denial of the claim by the CIR or there is a failure on his part to act on the claim within the 180-day period.

Judicial claim for tax credit/refund must be made within thirty (30) days from full or partial denial by the CIR or failure on the part of the CIR to act on the claim within the one hundred eighty (180)-day period.

For tax refund claims of excess income taxes of taxpayers undergoing cessation or dissolution of business, judicial claim for tax credit/refund must be made within 30 days from full or partial denial by the CIR.

4. REVENUE REGULATIONS NO. 6-2024 [April 11, 2024] – Implementing Section 45 of Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act", on Imposition of Reduced Interest and Penalty Rates for Micro and Small Taxpayers

The RR covers micro taxpayers, *i.e.*, whose gross sales for a taxable year is less than PhP3,000,000, and small taxpayers, *i.e.*, whose gross sales for a taxable year is PhP3,000,000 to less than PhP20,000,000.

Micro and small taxpayers are subject to the following reduced penalty rates:

a. Civil penalty of 10% of the amount due for failure to file any return and pay the tax due thereon on the date prescribed, failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment, or failure to pay the full or part of the amount of tax shown on any return required to be filed or the full amount of tax due for which no return is required to be filed on or before the date prescribed for its payment;
b. Interest at 50% of the interest rate mandated in Section 249 of the Tax Code, *i.e.*, 50% of double the legal interest rate or 6%;
c. PhP500 penalty for failure to file certain information returns but in no case shall the aggregate amount to be imposed for all such failures during a calendar year exceed PhP12,500;

d. Compromise penalty in case of criminal violation of Sections 113, 237, and 238 of the Tax Code, not involving fraud, of 50% of the applicable rate or amount of compromise under Annex A of Revenue Memorandum Order No. 7-2015, as amended.

5. REVENUE REGULATIONS NO. 7-2024 [April 11, 2024] – Implementing Sections 113, 325, 236, 237, 238, 242, 243 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act", on the Registration Procedures and Invoicing Requirements

The RR implements the amendments on the registration procedures and invoicing requirements, as follows:

a) All persons engaged in business or practice of profession shall:

i. Register and secure a BIR Certificate of Registration (COR);
ii. Comply with the invoicing requirements;
iii. Comply with the bookkeeping requirements;
iv. Secure "Notice to Issue Invoices;" and
v. Attend an initial briefing to be conducted by the respective RDOs.

b) Every person subject to internal revenue tax shall register with the BIR, as follows:

	Classification of Taxpayer	Timing of Registration
(1)	Self-employed individuals, estates and trusts, corporations, and their branches	On or before the commencement of business, *i.e.,* the day when the **first sale transaction** occurred **or** upon the **lapse of 30 calendar days** from issuance of the business permit or professional tax receipt by the local government unit, or the certificate of registration by the Securities and Exchange Commission or Department of Trade and Industry, whichever comes first.
(2)	Employees	10 days from date of employment.
(3)	Corporations or parties to One Time Transaction (ONETT)	Before payment of any tax due.
(4)	Corporations, partnerships, associations, cooperatives, government agencies and instrumentalities	Before or upon filing of any applicable tax return, statement, or declaration
(5)	Individuals required to secure TIN under Executive Order (EO) No. 98, Series of 1999	Before completion of their transaction with government agencies

Taxpayers may register online or manually at the RDO having jurisdiction: (i) over the place of business – for self-employed individuals, trusts, estate engaged in business, corporations, partnerships, associations, cooperatives, government agencies and instrumentalities, and non-individuals; (ii) over the place of residence – for professionals who do not have a business address, local and resident alien employees, and individuals required to secure TIN under EO No. 98; (iii) where the return will be filed – for estates not

engaged in business, and non-registered parties to ONETT; or (iv) with RDO 39 – for nonresidents.

c) An invoice shall be issued as the principal evidence of the sale of goods and/or services to customers. The invoice can be a sales invoice or commercial invoice for sales of goods, cash invoice for cash sales, credit invoice for sales on credit, service invoice for sales of services, or miscellaneous invoice for other types of sales. The official receipt is now only considered a supplementary document showing proof of payment, which, for VAT purposes, is not a valid proof to support the claim of input taxes by the purchasers of goods and/or services.

d) An invoice is required to be issued for transactions valued at PhP500.00 or more. However, regardless of the amount of transaction, the seller shall issue an invoice when the buyer so requires.

e) If the sales amount per transaction is below PhP500.00 but the aggregate sales amount at the end of the day is at least PhP500.00, the seller will issue one invoice for the aggregate sales amount at the end of the day.

f) A VAT-registered person shall issue a duly registered VAT invoice regardless of the amount of the transaction. He/She/It shall also maintain subsidiary sales and purchase journals on which the daily sales and purchases are recorded.

g) Issuing an erroneous VAT invoice shall have the following consequences:

   i. All persons who are not VAT-registered but issued a VAT invoice (showing the person's TIN followed by the word 'VAT' along with the other invoicing information required under the RR), shall, in addition to other percentage taxes, be liable to (1) VAT, without the benefit of any input tax credit, and (2) 50% surcharge.

   ii. A VAT-registered person or seller who erroneously issued a VAT invoice for a VAT-exempt transaction (but failed to specify that it was VAT-Exempt or clearly provide a breakdown of the VAT-Exempt sale), shall be liable for the VAT as if exemption under Section 109 of the Tax Code did not apply.

   iii. A VAT-registered person or seller who issued invoices with lacking information as required under the RR shall be liable for non-compliance with the invoicing requirements. However, the VAT amount shall still be allowed as input tax credit of the purchaser or buyer, except if the lacking information pertains to: (1) amount of sales; (2) VAT amount; (3) registered name and TIN of the seller and buyer; (4) description of goods or nature of services; and (5) date of transaction. Note that business style is not anymore required to be indicated in the VAT invoice.

h) All books of accounts and other accounting records shall be preserved by the taxpayer for a period of five years, down from the previous requirement of 10 years. Hard copies shall be maintained for manual and loose-leaf books and records, while electronic copies shall be maintained for computerized books and records.

i) Transitory provisions:

i. There is no need to update the COR to delete the Registration Fee. The COR shall retain its validity although the Registration Fee is shown therein.

ii. For unused manual and loose-leaf official receipts:

(1) Taxpayers may continue using the remaining official receipts as supplementary document until fully consumed, provided that the phrase "THIS DOCUMENT IS NOT VALID FOR CLAIM OF INPUT VAT" is stamped on the face of the official receipts;

(2) Taxpayers may convert and use the remaining official receipts as invoice by striking through the word "Official Receipt" and stamping "Invoice" until December 31, 2024. The converted "Invoice" shall be considered as the principal document and valid for claiming input VAT until December 31, 2024.

(3) All unused manual and loose-leaf official receipts to be converted as invoice shall be reported to the RDO.

iii. Taxpayers using cash register machines, point-of-sales machines, e-receipting or electronic invoicing software may change the word "Official Receipt" to "Invoice" without the need to notify the RDO since the reconfiguration shall be considered as minor system enhancement.

iv. For taxpayers using computerized accounting system (CAS) or computerized books of accounts, since the change in the timing of reporting of output VAT on the sales of services will require a reconfiguration, taxpayers must apply for a new acknowledgment certificate. The reconfiguration is regarded as a major system enhancement and taxpayers are given until June 20, 2024 to effect the system enhancements. A request for extension may also be filed but the necessary enhancements must be completed on or before October 27, 2024 or six months from the date of RR No. 7-2024's effectivity.

6. REVENUE REGULATIONS NO. 8-2024 [April 11, 2024] – Implementing Section 21(b) of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act", on the Classification of Taxpayers

Taxpayers shall be classified as follows:
a. Micro Taxpayer – gross sales for a taxable year less than PhP3,000,000
b. Small Taxpayer – gross sales for a taxable year is PhP3,000,000 to less than PhP20,000,000
c. Medium Taxpayer – gross sales for a taxable year is PhP20,000,000 to less than PhP1,000,000,000
d. Large Taxpayer – gross sales for a taxable year is PhP1,000,000,000 and above

For purposes of classification of taxpayers, gross sales shall refer to total sales revenue, net of VAT, if applicable, during the taxable year, without any other deductions. Gross sales shall only cover business income, excluding compensation income earned under employer-employee relationship, passive income, and income excluded under Section 32(B) of the Tax Code. Business income shall include income from the conduct of trade or business or the exercise of a profession.

Taxpayers who will register to engage in business or practice of profession upon effectivity of this RR shall initially be classified based on its declaration in the Registration Forms starting from the year they registered and shall remain as such unless reclassified. Taxpayers shall be duly notified by the BIR of their classification or reclassification.

Taxpayers registered in 2022 and prior years shall be classified on the basis of their gross sales for taxable year 2022. For such taxpayers without any submitted information, and taxpayers registered in 2023 or in 2024 before the effectivity of this RR, they shall initially be classified as micro, except VAT-registered taxpayers, who shall be classified as small.

b) REVENUE MEMORANDUM CIRCULARS

1. REVENUE MEMORANDUM CIRCULAR NO. 39-2024 [March 18, 2024] – Announces the availability of BIR Form No. 1701 in the Electronic Filing and Payment System (eFPS)[2]

BIR Form No. 1701 [Annual Income Tax Return for Individuals (including MIXED Income Earner), Estates and Trust] in the Electronic Filing and Payment System (eFPS) is now available. The said BIR Form shall be filed on or before April 15 of each year covering income for the preceding taxable year.

All eFPS users/filers who are mandated and required to file the said return and pay the corresponding tax due thereon, if any, shall use the eFPS Facility effective immediately. Likewise, eFPS users/filers who already filed their BIR Form No. 1701 for the taxable year 2023 using eBIRForms facility, need not re-file the return in the eFPS.

2. REVENUE MEMORANDUM CIRCULAR NO. 40-2024 [March 18, 2024] – Announces the new and upgraded Internal Revenue Stamp design for cigarettes, heated tobacco products, and vapor products[3]

The RMC informs all taxpayers and others concerned on the new and upgraded Internal Revenue Stamp Design for Cigarettes, Heated Tobacco Products, and Vapor Products in connection with the implementation of the Enhanced Internal Revenue Stamps Integrated System (eIRSIS) under the Terms of Reference of the Memorandum of Agreement which requires that the stamp design be modified and upgraded every three (3) years as quoted hereunder, to wit:

> *"Section 4.6.3.4 Submission of Proposed Design of the Internal Revenue Stamp*
>
> *xxx xxx xxx*
>
> *Within three (3) years from the time the last Stamp design was distributed to various tobacco manufacturers, modify and upgrade the design of the Stamp, subject to final approval by the BIR and at no additional cost of the stamp."*

The classification of Internal Revenue Stamps shall be as follows:

Tobacco Product	Tax Classification		Ten (10) Colors
Cigarettes	Domestic	Packed by 20s	Dark Green
		Packed by 10s	Green
	Imported	Packed by 20s	Brown
		Packed by 10s	Ochre

[2] This digest was reproduced from the BIR wIebsite.
[3] This digest was reproduced from the BIR website.

Tobacco Product	Tax Classification		Ten (10) Colors
	Export	Packed by 20s	Dark Blue
		Packed by 10s	Blue
Heated Tobacco Products	Domestic		Lavender
	Imported		Red
	Export		Violet
Vapor Products			Peach

The new and upgraded tobacco excise stamps would address the need to improve functionality of the original Internal Revenue Stamp implemented under Revenue Regulations (RR) No. 7-2014, as amended.

Implementation of the new and upgraded Internal Revenue Stamp Design shall take effect on June 1, 2024.

All manufacturers and importers of cigarettes, heated tobacco products, and vapor products shall comply with the requirements provided under RR No. 18-2021 on the affixture of Internal Revenue Stamps and the use of eIRSIS.

3. REVENUE MEMORANDUM CIRCULAR NO. 41-2024 [March 18, 2024] – Circularizes the policies and guidelines on the launching of the 4th Generation Internal Revenue Stamps for purposes of ordering and inventory planning of importers and local manufacturers of cigarettes, heated tobacco products, and vapor products[4]

REVENUE MEMORANDUM CIRCULAR NO. 41-2024 prescribes the policies, guidelines and procedures relative to the affixture of internal revenue stamps for Cigarettes, Heated Tobacco Products, and Vapor Products.

The following schedule shall serve as the guidelines during the transition period and the roll-out of the 4th Generation Design of Internal Revenue Stamps.

I. 3RD GENERATION STAMPS (VINTA)

Particulars	Date
a) Last day of ordering	April 30, 2024
b) Last day of approving stamp orders	May 2, 2024
c) Last day of releasing stamp orders	May 17, 2024
d) Period of suspension in placing stamp orders	May 1, 2024 to May 7, 2024
e) Last day of affixture for: a. For locally manufactured products b. For imported products	 November 18, 2024 January 17, 2025
f) Last day of validity of cigarettes and heated tobacco in the market	June 17, 2025

II. 4TH GENERATION STAMPS (TAMARAW)

Particulars	Date
a) First day of ordering	May 8, 2024
b) Start of releasing stamp orders	May 17, 2024

[4] This digest was reproduced from the BIR website.

4. REVENUE MEMORANDUM CIRCULAR NO. 51-2024 [April 8, 2024] – Prescribes guidelines in the filing of Annual Income Tax Returns and payment of taxes due thereon for Calendar Year 2023[5]

REVENUE MEMORANDUM CIRCULAR NO. 51-2024 issued on April 8, 2024, prescribes the guidelines in the filing of Annual Income Tax Return (AITR) for Calendar Year (CY) 2023 and payment of corresponding taxes due thereon on or before April 15, 2024.

The filing of the AITR for CY 2023 shall be done electronically in any of the available BIR electronic platforms (Electronic Filing and Payment System (eFPS) or eBIRForms). However, in case of unavailability/inaccessibility of the electronic platforms, manual filing of the AITR may be allowed.

For payment of Income Tax due, it shall be made either electronically in any of the available electronic payment (ePay) gateways or manually to any Authorized Agent Bank (AAB) or Revenue Collection Officer (RCO) of any Revenue District Office (RDO).

All individual taxpayers, regardless of classification, shall use the existing version of BIR Form Nos. 1701 or 1701A, whichever is applicable, in the filing of their 2023 AITR. The two-page return provided under Republic Act (RA) No. 11976 [Ease of Paying Taxes (EOPT)] Act shall be used in the filing of the 2024 AITR, which is due next year (on or before April 15, 2025).

Taxpayers mandated to use the eFPS shall file the AITR electronically and pay the taxes due thereon through the eFPS-AABs where they are enrolled. The AITRs available in the eFPS are BIR Form Nos. 1700, 1701A, 1701, 1702RT and 1702-EX. BIR Form No. 1702-MX is not yet available in the eFPS and filers of this return shall file through the Offline eBIRForms Package v7.9.4.2 and pay the taxes due, if any, in the eFPS-AABs facility using BIR Form No. 0605. The tax type to be used is Income Tax (IT) and the Alphanumeric Tax Code (ATC) is MC 200 - Miscellaneous Tax.

Said taxpayers shall use the eBIRForms facility in the filing of their AITR in case filing cannot be made through the eFPS due to the following reasons:

a) Enrollment in BIR-eFPS and eFPS-AAB is still in process;
b) The enhanced form is not yet available in the eFPS;
c) Unavailability of BIR-eFPS covered by an Advisory published in the BIR Website (www.bir.gov.ph); or
d) Unavailability of eFPS-AAB system covered by an Advisory released/published by the AAB.

Non-eFPS taxpayers shall use the eBIRForms in filing their AITR electronically through the Offline eBIRForms Package v7.9.4.2. All AITRs are available, to wit:

BIR Form No.	Latest Version to be Used in eBIRForms
1700	BIR Form No. 1700v2018
1701	BIR Form No. 1701v2018
1701A	BIR Form No. 1701A
1702-RT	BIR Form No. 1702RTv2018C
1702-EX	BIR Form No. 1702EXv2018C
1702-MX	BIR Form No. 1702MXv2018C

[5] This digest was reproduced from the BIR website.

Taxpayers who already filed the AITR through the eBIRForms shall no longer be required to file or refile the return in the eFPS.

For electronically filed AITRs without any required attachment, the printed copy of the e-filed tax returns need not be submitted to the Large Taxpayers Office/RDO. The generated Filing Reference Number (FRN) from the eFPS or the Tax Return Receipt Confirmation from eBIRForms will serve as sufficient proof of filing of returns.

Manual payment of taxes shall be made through any AAB; or in places where there are no AABs, the tax due shall be paid with the RCO under any RDO. RCO may accept cash payment up to ₱20,000.00 only or in check regardless of amount, payable to "Bureau of Internal Revenue".

Online payment through Electronic Payment (ePay) shall be made through the following gateways:

- Landbank of the Philippines (LBP) Link.BizPortal - for taxpayers who have Landbank/OFBank ATM Card or for taxpayers utilizing PCHC PayGate or PESONet facility [depositors of Rizal Commercial Banking Corporation (RCBC), Robinsons Bank, Union Bank, Bank of the Philippine Islands (BPI), Philippine Savings Bank (PSBank) and Asia United Bank]; or
- Development Bank of the Philippines' (DBP) PayTax Online - for taxpayers-holders of VISA/MasterCard Credit Card and/or BancNet ATM/Debit Card; or
- Union Bank of the Philippines (UBP) Online/The Portal Payment Facilities - for taxpayers who have an account with UBP or InstaPay using UPAY Facility (for individual Non-Account holder of Union Bank); or
- Thru Tax Software Provider (TSP) - Maya or MyEG.

Taxpayers who shall pay their tax due online using the ePayment Gateways must file the corresponding AITR online through the Offline eBIRForms Package v7.9.4.2.

Only those applicable attachments mentioned in the Circular shall be submitted by the concerned taxpayers, to wit:

Taxpayer/Filer	When to submit	Mode of Submission
eBIRForms and eFPS Filers	• Within fifteen (15) days from the date of electronic filing or the deadline of filing of the return whichever comes later • In case of late filing, within fifteen (15) days from filing	• Online submission through Electronic Audited Financial Statements (eAFS); or • Manual submission to the Large Taxpayers Office/ Division or RDO or to the RCO, except Certificates of Withholding Tax (i.e., BIR Form Nos. 2307, 2316). Submission of copies of said Certificates shall be in accordance with existing revenue issuances.

Since the AITR will be filed electronically, there is no need to have it stamped "Received". Instead, the FRN or the Tax Return Receipt Confirmation shall serve as proof of filing of such AITR. The attachments to the AITR shall be stamped only on the page of the Audit Certificate, Balance Sheet/Statement of Financial Position and Income Statement/Statement of Comprehensive Income. The other pages of the financial statements and their attachments need not be stamped "Received". In the case of corporations and other juridical persons, at least two (2) extra copies of the audited financial statements for filing with the Securities and Exchanges Commission should be stamped "Received".

The "Summary Guidelines in the Filing of AITR and Payment of Taxes Due for Calendar Year 2023" is attached as Annex A of the Circular

5. REVENUE MEMORANDUM CIRCULAR NO. 49-2024 [April 3, 2024] – Circularizes Joint Memorandum Circular No. 2023-003, Series of 2023, issued by the Department of Human Settlements and Urban Development and the National Economic and Development Authority[6]

The price ceiling for socialized subdivision projects set by Housing and Urban Development Coordinating Council (HUDCC) Resolution No. 1, series of 2018, is adjusted to ₱850,000.00, with a minimum floor area of 28 sqm with a loft of at least 50% of the base structure, or 32 sqm, subject to existing rules and regulations.

The tiered price ceiling for socialized condominium projects set by HUDCC Resolution No. 2, series of 2018, is adjusted based on the minimum floor area requirement, as follows:

Building	Unit Sizes (sqm)	Price Ceiling (₱)
4 Floors	22	993,920
	25	1,060,591
	27	1,145,438
5-9 Floors	22	1,000,000
	25	1,136,364
	27	1,227273
10 Floors and Above	22	1,320,000
	25	1,500,000
	27	1,620,000

The foregoing approved price ceiling for the socialized condominium projects does not include the land and land development costs. As such, the DHSUD Secretary has the authority to approve land and land development costs; Provided, however, that the maximum selling price does not exceed ₱1,800,000.00.

6. REVENUE MEMORANDUM CIRCULAR NO. 51-2024 [April 8, 2024] – Prescribes guidelines in the filing of Annual Income Tax Returns and payment of taxes due thereon for Calendar Year 2023[7]

The filing of the Annual Income Tax Return ("**AITR**") for calendar year ("**CY**") 2023 shall be done electronically in any of the available BIR electronic platforms (Electronic Filing and Payment System (eFPS or eBIRForms). However, in case of unavailability/inaccessibility of the electronic platforms, manual filing of the AITR may be allowed.

[6] This digest was reproduced from the BIR website.
[7] This digest was reproduced from the BIR website.

For payment of Income Tax due, it shall be made either electronically in any of the available electronic payment ("**ePay**") gateways or manually to any Authorized Agent Bank ("**AAB**") or Revenue Collection Officer ("**RCO**") of any Revenue District Office ("**RDO**").

All individual taxpayers, regardless of classification, shall use the existing version of BIR Form Nos. 1701 or 1701A, whichever is applicable, in the filing of their 2023 AITR. The two-page return provided under Republic Act ("**RA**") No. 11976 [Ease of Paying Taxes ("**EOPT**") Act] shall be used in the filing of the 2024 AITR, which is due next year (on or before April 15, 2025).

Taxpayers mandated to use the eFPS shall file the AITR electronically and pay the taxes due thereon through the eFPS-AABs where they are enrolled. The AITRs available in the eFPS are BIR Form Nos. 1700, 1701A, 1701, 1702RT and 1702-EX. BIR Form No. 1702-MX is not yet available in the eFPS and filers of this return shall file through the Offline eBIRForms Package v7.9.4.2 and pay the taxes due, if any, in the eFPS-AABs facility using BIR Form No. 0605. The tax type to be used is Income Tax ("**IT**") and the Alphanumeric Tax Code ("**ATC**") is MC 200 - Miscellaneous Tax.
Said taxpayers shall use the eBIRForms facility in the filing of their AITR in case filing cannot be made through the eFPS due to the following reasons:

a. Enrollment in BIR-eFPS and eFPS-AAB is still in process;
b. The enhanced form is not yet available in the eFPS;
c. Unavailability of BIR-eFPS covered by an Advisory published in the BIR Website (www.bir.gov.ph); or
d. Unavailability of eFPS-AAB system covered by an Advisory released/published by the AAB.

Non-eFPS taxpayers shall use the eBIRForms in filing their AITR electronically through the Offline eBIRForms Package v7.9.4.2. All AITRs are available, to wit:

BIR Form No.	Latest Version to be Used in eBIRForms
1700	BIR Form No. 1700v2018
1701	BIR Form No. 1701v2018
1701 A	BIR Form No. 1701A
1702-RT	BIR Form No. 1702RTv2018C
1702-EX	BIR Form No. 1702EXv2018C
1702-MX	BIR Form No. 1702MXv2018C

Taxpayers who already filed the AITR through the eBIRForms shall no longer be required to file or refile the return in the eFPS.

For electronically filed AITRs without any required attachment, the printed copy of the e-filed tax returns need not be submitted to the Large Taxpayers Office/RDO. The generated Filing Reference Number ("**FRN**") from the eFPS or the Tax Return Receipt Confirmation from eBIRForms will serve as sufficient proof of filing of returns.

Manual payment of taxes shall be made through any AAB; or in places where there are no AABs, the tax due shall be paid with the RCO under any RDO. RCO may accept cash payment up to ₱20,000.00 only or in check regardless of amount, payable to "Bureau of Internal Revenue".

Online payment through Electronic Payment (ePay) shall be made through the following gateways:

- Landbank of the Philippines (LBP) Link.BizPortal - for taxpayers who have Landbank/OFBank ATM Card or for taxpayers utilizing PCHC PayGate or PESONet facility [depositors of Rizal Commercial Banking Corporation (RCBC), Robinsons Bank, Union Bank, Bank of the Philippine Islands (BPI), Philippine Savings Bank (PSBank) and Asia United Bank]; or
- Development Bank of the Philippines' (DBP) PayTax Online - for taxpayers-holders of VISA/MasterCard Credit Card and/or BancNet ATM/Debit Card; or
- Union Bank of the Philippines (UBP) Online/The Portal Payment Facilities - for taxpayers who have an account with UBP or InstaPay using UPAY Facility (for individual Non-Account holder of Union Bank); or
- Thru Tax Software Provider (TSP) - Maya or MyEG.

Taxpayers who shall pay their tax due online using the ePayment Gateways must file the corresponding AITR online through the Offline eBIRForms Package v7.9.4.2.

Only those applicable attachments mentioned in the Circular shall be submitted by the concerned taxpayers, to wit:

Taxpayer/Filer	When to Submit	Mode of Submission
eBIRForms and eFPS Filers	• Within fifteen (15) days from the date of electronic filing or the deadline of filing of the return whichever comes later • In case of late filing, within fifteen (15) days from filing.	• Online through Audited submission Electronic Financial Statements ("**eAFS**"); or • Manual submission to the Large Taxpayers Office/ Division or RDO or to the RCO, except Certificates of Withholding Tax (i.e., BIR Form Nos. 2307, 2316). Submission of copies of said Certificates shall be in accordance with existing revenue issuances.

Since the AITR will be filed electronically, there is no need to have it stamped "Received". Instead, the FRN or the Tax Return Receipt Confirmation shall serve as proof of filing of such AITR. The attachments to the AITR shall be stamped only on the page of the Audit Certificate, Balance Sheet/Statement of Financial Position and Income Statement/Statement of Comprehensive Income. The other pages of the financial statements and their attachments need not be stamped "Received". In the case of corporations and other juridical persons, at least two (2) extra copies of the audited financial statements for filing with the Securities and Exchanges Commission should be stamped "Received".

The "Summary Guidelines in the Filing of AITR and Payment of Taxes Due for Calendar Year 2023" is attached as Annex A of the Circular.

7. REVENUE MEMORANDUM CIRCULAR NO. 52-2024 [April 8, 2024] – Announces the availability of the BIR Electronic Tax Clearance System (eTCS) for taxpayer-applicants registered under Revenue Region No. 8A – Makati City as the pilot region[8]

The TCC types and purposes covered by the eTCS for the pilot rollout are the following:

[8] This digest was reproduced from the BIR website.

1. Tax Clearance for Bidding Purposes ("**TCBP**") For Non-Large Taxpayers - The TCBP is issued to individual/non-individual taxpayers who intend to enter or participate in a contract with the government in the procurement of goods and/or services pursuant to Executive Order No. 398.

2. Tax Clearance for General Purposes ("**TCGP**"):

    2.1. Philippine National Police ("**PNP**") Supervisory Office for Security and Investigation Agencies ("**SOSIA**") Requirement;
    2.2. Promotion/Confirmation of Appointment for Military personnel/ Government Officials (except Cabinet Members and Department of Foreign Affairs ("**DFA**") Appointees);
    2.3. Accreditation (except importer/customs broker);
    2.4. Collection Purposes;
    2.5. Land Transportation Franchising and Regulatory Board ("**LTFRB**") Requirements for renewal of Franchise;
    2.6. Bank Loans;
    2.7. Government Agency Requirements; and
    2.8. Others (except for Bidding Purposes, Accreditation of importers and custom brokers, sale/transfer of stocks or real properties, and approval of sale/transfer of Certificate of Public Convenience)

    The TCGP is issued to taxpayer certifying that he/she/it is tax compliant and has no outstanding tax liability within the Bureau, for purposes mentioned above.

3. Tax Compliance Verification Certificate ("**TCVC**") - The TCVC is a pre-requisite and one of the documentary requirements in applying for a TCBP to be secured by all prospective government bidders [except for Non-Resident Foreign Corporation ("**NRFC**"), Non-Resident Alien not engaged in trade or business ("**NRANETB**"), and Large Taxpayers] from the Collection Section of the concerned Revenue District Office ("**RDO**") where the taxpayer is registered.

4. Delinquency Verification Report ("**DVR**") - The DVR is a pre-requisite and one of the documentary requirements in applying for a TCGP to be secured by the taxpayer-applicant from the Collection Section of the concerned RDO where the taxpayer is registered.

The objectives of the eTCS front office are the following:

1. Secure login and registration process;
2. View & submit documentary requirements;
3. Monitor submission progress;
4. Apply for tax clearance seamlessly;
5. Secured and effortless payment of Certification and Doc Stamp Fees; and
6. Download and access TCC.

All taxpayer-applicants who intend to apply for a TCC shall be guided by a User's Manual which can be accessed through eTCS homepage.

8. REVENUE MEMORANDUM CIRCULAR NO. 54-2024 [April 15, 2024] – Amends RMC No. 91-2018 relative to the Taxpayer Identification Number (TIN) Issuance to Clients of

Microfinance Non-Government Organizations (MF-NGOs) and Members of Cooperatives through Online Registration and Update System (ORUS)[9]

Clients of the MF-NGOs and members of cooperative can directly apply for TIN through ORUS using the Executive Order No. 98 functionality following the procedures in the attached ORUS User Guide/Taxpayer Job Aid.

This Circular supersedes the policies and guidelines prescribed under RMC No. 91-2018 with respect to the TIN Issuance to Clients of MF-NGOs using the BIR eRegistration System. All access granted to the authorized users of the said system shall be suspended on April 30, 2024.

9. **REVENUE MEMORANDUM CIRCULAR NO. 55-2024** [April 15, 2024] – Extends the ninety-day period for the actual imposition of Withholding Tax on Gross Remittances made by electronic marketplace operators and digital financial services providers to sellers/merchants prescribed under RR No. 16-2023[10]

This Circular extends the prescribed transitory period to an additional ninety-days or until July 14, 2024, for the Electronic Marketplace Operators and Digital Financial Services Providers to comply and adjust to the requirements of Revenue Regulations No. 16-2023 and other government agencies.

[9] This digest was reproduced from the BIR website.
[10] This digest was reproduced from the BIR website.