



TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.



TAX UPDATES FROM DECEMBER 16, 2024 TO JANUARY 15, 2025

Prepared by:
DU-BALADAD AND ASSOCIATES (BDB LAW)

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DISCUSSION

SUPREME COURT DECISION

1. The DOE Certificate of Endorsement is not a requirement to avail of the VAT zero-rating incentive under the Renewable Energy Act.

The taxpayer is a renewable energy (RE) developer engaged in the sale of fuel or power generated from renewable sources. It sought to claim a tax refund/credit of unutilized input VAT attributable to its zero-rated sales pursuant to the tax incentives provided under the Renewable Energy Act. The tax court denied the claim on the ground that the taxpayer was not able to present the Certificate of Endorsement from the Department of Energy as contained in the implementing rules and regulations of the Renewable Energy Act.

However, the Supreme Court held that the taxpayer was able to comply with the statutory requirements to qualify its transactions for zero-rating. It ruled that the only other requirement for VAT zero-rating qualification, aside from the conditions imposed by the NIRC, is the RE developer's registration with the DOE.

While the Department of Energy may impose further requirements before it can qualify the RE Developer or their transactions to fiscal incentives under Section 15 of the Renewable Energy Act, it cannot impose other certification requirements, such as a certificate of endorsement, to the VAT zero-rating incentive. In requiring RE Developers to obtain a Certificate of Endorsement on a per transaction basis to avail of the incentives, the Department of Energy exceeded its authority.

In other words, the DOE Certificate of Endorsement is not a requirement to avail of the VAT zero-rating incentive under the Renewable Energy Act.

Nonetheless, the Supreme Court still denied the claim on the ground that the taxpayer failed to prove the existence of its zero-rated sales. Such denial is due to the findings of the tax court that the related official receipt is not legible. (*Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, December 3, 2024)

CTA DECISIONS

1. An assessment (*i.e.*, FLD) differs from a decision (*i.e.*, FDDA). The invalidity of one does not necessarily result to the invalidity of the other.

This is an appeal on the assessment issued by the BIR against the taxpayer. The taxpayer argued that the FDDA issued by the BIR is not a valid assessment as it does not contain any date purporting to be a definite due date to pay the alleged deficiency taxes due.

A void FDDA does not ipso facto render an assessment void. An assessment becomes a disputed assessment after a taxpayer has filed its protest to the assessment in the administrative level. Thereafter, the BIR either issues a decision on the disputed assessment or fails to act on it and is, therefore, considered denied. The taxpayer may appeal the decision on the disputed assessment or the inaction of the BIR. Hence, an FDDA provides an assessment of the BIR but is not the only means that the final tax liability of a taxpayer is fixed.

An assessment differs from a decision. The invalidity of one does not necessarily result to the invalidity of the other. Thus, when the FDDA indicated an invalid date of payment, it did not affect the validity of the FLD *per se*. In the present case, while the FLD dated August 5, 2016 stated that the taxpayer is requested to pay the alleged deficiency taxes "within the time shown in the enclosed assessment notice," the attached Assessment Notices therewith clearly indicated the date of payment to be September 10, 2016. (*Goodyear Steel Pipe Corporation v. Commissioner of Internal Revenue*, CTA Case No. 10555, December 16, 2024)

2. The mere usage of the term “request” does not loosen the effect of a demand for payment.

This is an appeal on the assessment issued by the BIR against the taxpayer. The taxpayer argued, among others, that the FLD is null and void as it does not constitute an imperative and unequivocal demand for payment. Further, it asserts that both the FLD and the FDDA merely requested for payment, not demand such, thus negating the obligation to pay as it gives the taxpayer the option not to pay if it is not amenable to the assessment.

However, the tax court held that the mere usage of the term “request” does not loosen the effect of a demand for payment. A demand is a demand, even when couched in a civil or polite tone. The primary purpose of a demand is to signal the time when penalties and interest begin to accrue.

Nonetheless, the tax court still ordered the cancellation and withdrawal of the assessment on the ground of failure by the BIR to provide reasons for rejecting the arguments and defenses of the taxpayer. (*Retiro Golden Foods, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10519, January 2, 2025*)

3. Official receipts issued without the requisite ATP shall not be appreciated in favor of a claim for refund of unutilized input VAT.

This is a judicial claim for refund of unutilized input VAT attributable to its zero-rated sales. The taxpayer argues that a valid Authority to Print (ATP) is not an invoicing requirement that must be complied with, especially in substantiating its claim for refund or credit of unutilized input VAT.

However, the tax court held that a VAT official receipt within the context of the Tax Code shall be one that has been “duly registered” with the BIR. In turn, due registration of receipts shall be accomplished by securing an ATP to print receipts before a printer can print the same.

In this light, the issuance of official receipts beyond the validity period of its ATP is non-compliance with the prescribed rules and regulations of invoicing; official receipts issued without the requisite ATP shall not be appreciated in favor of a claim for refund of unutilized input VAT. (*Halliburton Worldwide Limited – Philippine Branch v. Commissioner of Internal Revenue, CTA Case No. 10467, January 8, 2025*)

4. The buyer’s acceptance to shoulder the financial burden of capital gains tax (“CGT”) does not alter the seller’s status as the statutory taxpayer.

This is a judicial claim for refund of alleged erroneously paid CGT on the sale of shares of stock by virtue of its exemption under the RP-US Tax Treaty. The taxpayer-seller, a Delaware-based corporation, sold shares of stock of a domestic corporation to another Delaware-based corporation. The related taxes were initially paid but was subsequently alleged to have been made erroneously.

The BIR argued, among others, that the taxpayer-seller does not have legal standing since it was not the statutory taxpayer. This is because the deposit slip evidencing payment of the CGT indicated the buyer as the taxpayer.

The tax court ruled that it is not unusual for parties to a sale to agree on a different payment arrangement; however, the buyer's acceptance to shoulder the financial burden of CGT does not alter the seller's status as the statutory taxpayer. As the statutory taxpayer, the taxpayer-seller filed the required CGT return and caused payment of the tax due.

The payment of the CGT, regardless of the person or entity making the actual remittance to the BIR, was for the account of the taxpayer-seller. As such, the taxpayer-seller is vested with the legal standing to bring the instant suit for refund. (*Commissioner of Internal Revenue v. Grid Solutions (U.S.) LLC, CTA Case EB No. 2814, January 9, 2025*)

BIR ISSUANCES

1. Revenue Regulations (RR) No. 18-2024 – This implements the income tax exemption under treaties and international agreements.

Income of any kind shall be exempt from income tax to the extent required by any treaty including agreements entered into with economies and administrative regions. The indicative list of economies and administrative regions (as enumerated in Annex A of the revenue regulations) shall be regularly updated.

The regulations shall not be construed as recognizing the statehood of economies and administrative regions nor derogating from whatever policy the Philippines has agreed to adopt and implement.

2. RR No. 1-2025 – This implements the excise tax exemption of hybrid or purely electric vehicles.

Applicable excise tax exemption:

EXEMPT	Purely electric vehicles
50%	Hybrid vehicles

Determination of the applicable excise tax exemption shall be based on the List of Recognized Electric Vehicles prepared by the Department of Energy and published on its website. Such determination is without prejudice to the BIR's authority to conduct any post-verification assessment.

3. RR No. 2-2025 – This implements the tax provisions under the Securitization Act of 2004.

Tax Treatment of Transfer of Assets

Sale or transfer of assets to the Special Purpose Vehicle	Exempt from VAT, DST, or any other taxes imposed in lieu thereof
Transfer of assets by dation in payment	Exempt from CGT

Tax Treatment on the Issuance and Transfer of Securities

Original issuance of asset-backed securities and other securities related to the securitization transaction	Exempt from VAT any other taxes imposed in lieu thereof, but subject to DST
Secondary trades and subsequent transfers of asset-backed securities	Exempt from VAT, DST, or any other taxes imposed in lieu thereof

Tax Treatment of Income from Asset-Backed Securities

Yield or income from Asset-Backed Securities	20% FWT
Yield or income from low cost or socialized housing-related Asset-Backed Securities	Exempt from income tax

4. Revenue Memorandum Circular (RMC) No. 133-2024 – This amends the venue for the processing of eCAR.

The venue for the processing and issuance of Electronic Certificate Authorizing Registration (eCAR) pertaining to sale of personal property shall be:

Prior venue	As amended
RDO which has jurisdiction over the residence of the seller	<input checked="" type="checkbox"/> RDO where the TIN of the seller/transferor is registered; or <input checked="" type="checkbox"/> RDO which has jurisdiction over the residence of the seller/transferor

5. RMC No. 1-2025 – This announces the availability of the eTCS for taxpayer-applicants under certain Revenue Regions.

The Electronic Tax Clearance System (eTCS) is developed as a web-based system that provides a facility for taxpayer-applicants to conveniently pay and receive Tax Clearance Certificate (TCC). It is now available for taxpayer-applicants under Revenue Region Nos. 7A, 7B, and 8B.

The eTCS can be used/accessed through the BIR website (www.bir.gov.ph) under the eServices icon “eTCS.”

I. TCC types and purposes covered by eTCS

TCC TYPES AND PURPOSES	DESCRIPTION
TAX CLEARANCE FOR BIDDING PURPOSES (TCBP) FOR NON-LARGE TAXPAYERS	This is issued in relation to participating/entering into government contracts.
TAX CLEARANCE FOR GENERAL PURPOSES (TCGP)	This is issued to taxpayer for the following specific purposes: <ul style="list-style-type: none">a. PNP Supervisory Office for Security and Investigation Agencies (SOSIA) Requirement;b. Promotion/Confirmation of Appointment for Military personnel/Government officials (except Cabinet Members and DFA Appointees);c. Accreditation (except importer/customs broker;d. Collection purposes;e. LTFRB franchise renewal;f. Bank Loans;g. Government Agency Requirements; andh. Others (except for Bidding Purposes, Accreditation of importers and customs brokers, sale/transfer of stocks or real properties, and approval of sale/transfer of Certificate of Public Convenience)
TAX COMPLIANCE VERIFICATION CERTIFICATE (TCVC)	It is a pre-requisite and one of the documentary requirements in applying for TCBP.
DELINQUENCY VERIFICATION REPORT (DVR)	It is a pre-requisite and one of the documentary requirements in applying for a TCGP.

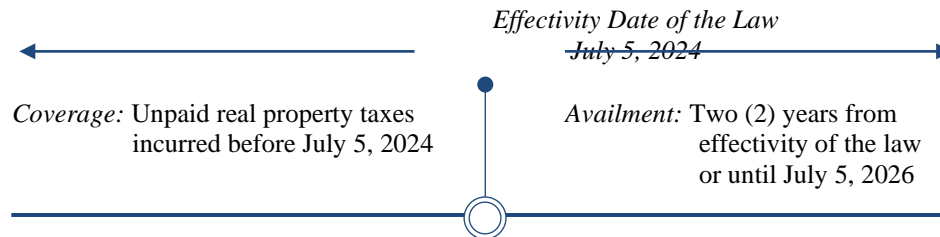
II. Functionalities and objectives of the eTCS front office

- ☑ Secure login and registration process;
- ☑ View & submit documentary requirements;
- ☑ Monitor submission progress;
- ☑ Apply for a tax clearance seamlessly;
- ☑ Secured and effortless payment of Certification and Doc Stamp Fees; and
- ☑ Download and access TCC.

BLGF ISSUANCES

1. This reiterates the real property tax amnesty under the Real Property Valuation and Assessment Reform Act

Coverage and Availment



The amnesty also covers:

- ☒ Penalties, surcharge, and interests for unpaid real property taxes
- ☒ Special education fund
- ☒ Idle land tax
- ☒ Other special levy taxes

The amnesty excludes:

- ☒ Delinquent real properties that have been sold at public auction to settle real property tax delinquencies;
- ☒ Delinquent real properties with delinquencies being paid under a compromise agreement; and
- ☒ Delinquent real properties involved in ongoing court cases related to real property tax delinquencies.

Manner of Payment

- ☒ May either be in a lump sum or through installment payments until July 5, 2026.
- ☒ LGUs may issue an ordinance to outline payment methods, but the absence of such an ordinance will not hinder the implementation of the tax amnesty.

BSP ISSUANCES

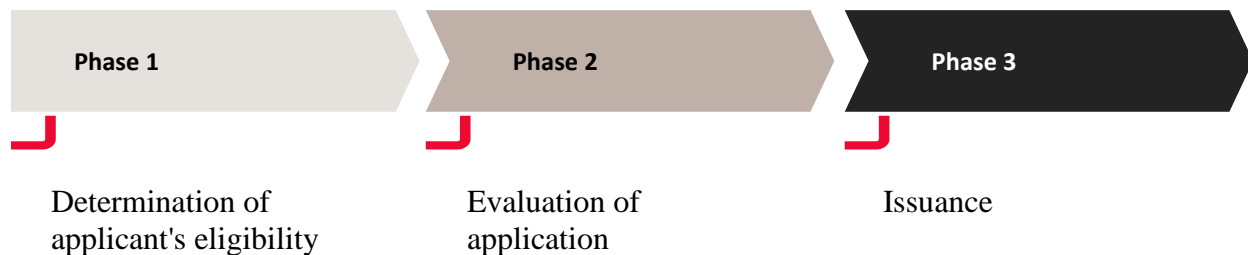
1. This provides for the guidelines on the application of merchant acquisition license.

Submission of application

1. All Merchant Acquisition License (MAL) applications and communications shall be transmitted electronically (using the prescribed format/template) to the BSP Payments Supervision and Licensing Department (PSLD-Applications@bsp.gov.ph).

2. Incomplete/non-compliant applications shall be returned without prejudice to submission of a new complete/compliant application.
3. Authorized representative
 - ✓ In charge of information requests and shall respond on a timely basis
 - ✓ In case of change, BSP must be notified within (five) 5 business days
4. Denied/withdrawn applications may be refiled after the lapse of six (6) months provided that the non-compliance has been addressed.

Application Process



Review Process

1. The application shall be evaluated only upon receipt of complete documents and information for each phase. Material changes during the application process must be reported to the PSLD.
2. PSLD may have several requests for information/documents and may also conduct onsite verification of documents and representations.

Failure of the applicant to respond to requests within the prescribed period shall cause the return of the application.

Rules for Banks and Electronic Money Issuers-Non-Bank Financial Institutions (EMI-NFBI)

1. Banks and EMI-NFBIs that intend to engage in merchant acquisition need not apply a separate license from the BSP.
2. Prior notice by the bank or EMI-NFBI to the PSLD, copy furnished to the corresponding Financial Services Department, shall suffice.