TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.

TAX UPDATES FROM JULY 16, 2024 TO AUGUST 15, 2024

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DECISION / ISSUANCE	DATE ISSUED	SUBJECT	PAGE NO.
COURT OF TAX APPEALS DECISIONS ("CTAs")			
1. Misamis Oriental Rural Electric Service Cooperative I, Inc., (MORESCO I) v. Commissioner of Internal Revenue, CTA Case No. 10206	16 July 2024	Cooperatives registered with the National Electrification Administration (NEA) are exempt from paying income taxes under Section 39 of presidential Decree (PD) No. 269. The Cooperative Code repeals E.O. No. 93 and FIRB Resolution No. 24-87, maintaining the tax exemptions for NEA-registered cooperatives without requiring further registration with the Cooperative Development Authority (CDA). Consequently, any income tax assessment against such cooperatives lacks legal basis.	**10-11**
2. People of the Philippines v. Hon. Ana Teresa T. Cornejo-Tomacruz, Rappler Holdings Corporation, and Maria A. Ressa, CTA SCA Case No. 0014	16 July 2024	Petition for certiorari will not prosper when there is no clear demonstration that the trial court blatantly abused its authority to appoint so grave as to deprive it of its very power to dispense justice.	**11**
3. People of the Philippines v. Ziegfried Loo Tian, CTA EB Crim. No. 112	16 July 2024	The prescriptive period for prosecuting violations of the National Internal Revenue Code (NIRC) is interrupted only by filing an Information before the Court of Tax Appeals (CTA), not by filing a Joint Complaint-Affidavit (JCA) with the Department of Justice (DOJ).	**11-12**
4. MSCI Hong Kong Limited v. Commissioner of Internal Revenue, CTA Case No. 10474	17 July 2024	A VAT-registered taxpayer must comply with the requisites under Sec. 112(A) of the NIRC and those established by jurisprudence, and must ensure the same is substantiated with proper documents to be entitled to a refund of input taxes.	**12-13**
5. Victor R. Del Rosario Rice Mill Corporation v. Hon. Rey Leonardo	18 July 2024	Exhaustion of administrative remedies is required by CMO No. 17-2019 before seeking judicial appeal. This includes	**13-14**

	B. Guerrero, Atty. Erastus Sandino Austria, and the Bureau of Customs , CTA EB No. 2731 (CTA Case No. 10082)		appealing the Consolidated Order to the COC within 15 days, as specified by Section 114 of the CMTA. Failure to do so results in the finality of the order, and the Court in Division lacks jurisdiction over the original petition.	
6.	Pentagon Gas Corporation v. Commissioner of Internal Revenue and Manuel v. Mapoy, CTA Case No. 10868	19 July 2024	Pursuant to Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, (G.R. No. 208731, 27 January 2016), a whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. In turn, a whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA.	**14-15**
7.	R.A. Tagala & Co. Ventures, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10217	19 July 2024	The reassignment or transfer of a Revenue Officer (RO) requires the issuance of a new or amended Letter of Authority (LOA) for the substitute or replacement of an RO to continue the audit or investigation.	**15-16**
8.	Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue CTA EB No. 2732 (CTA Case No. 10097)	19 July 2024	The decisions of the Commissioner of Internal Revenue (CIR) which are appealable to the Court of Tax Appeals (CTA) is not limited only to cases involving disputed assessments (which entails the filing of a protest to the Final Assessment Notice) or refund claims, but also includes "other matters" arising under the said laws. 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 CTA to have exclusive jurisdiction to resolve all tax problems.	**16-17**
9.	Tridharma Marketing Corp. V. Commissioner of Internal Revenue, CTA Case No. 10907	22 July 2024	The two-year period to file for a tax refund starts on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted.	**17-18**
10.	Li-Son Transport Service Inc., v. Commissioner of Internal Revenue, CTA Case No. 10631	23 July 2024	A valid protest against an FLD/FAN must state: (i) the nature of the protest (reconsideration or reinvestigation), (ii) the assessment notice date, and (iii) applicable laws, rules, or jurisprudence.	**18-19**

		Failure to include these makes the protest void. An indefinite total tax due is prohibited, not the interest amount. Interest periods are specified in the FLD/FAN, and adjustments are noted if taxes are paid late. Interest accrues from the payment due date until full payment, as per Section 249 of the NIRC of 1997. The BIR cannot predict the payment date when issuing the FLD/FAN.	
11. Halliburton Worldwide Limited – Philippine Branch v. Commissioner of Internal Revenue, CTA Case No. 10467	26 July 2024	To prove entitlement to credits for input taxes due or paid, one must not only present the supporting documents prescribed under Sec. 4.110-8 of Revenue Regulations (RR) No. 16-2005. In addition, these documents must comply with the invoicing requirements under Sec. 113(A) and (B), 237 and 238 of the NIRC, as amended, as implemented by Sec. 4.113-1(A) and (B) of RR No. 16-2005.	**19-20**
12. SL Harbor Bulk Terminal Corporation v. Commissioner of Internal Revenue, CTA Case No. 10250	26 July 2024	Requisites to claim a tax credit or refund of erroneously or illegally collected excise taxes paid on imported fuel sold to tax-exempt entities: 1. The claim was filed within the two-year prescriptive period as provided under Sec. 204(C) and Sec. 229 of the NIRC of 1997; 2. That the entity to which the petitioner sold the petroleum products is an entity exempt by law from indirect and direct taxes; and The petitioner is the statutory taxpayer and actually paid the claimed excise taxes on the same petroleum products sold to the exempt entity.	**20-21**
13. Glend Agnes Llantada (Serviplus Medical Equipment Services & Supply) v. Commissioner of Internal Revenue , CTA Case No. 10468	26 July 2024	Revenue Memorandum Order (RMO) No. 19-2015 sanctions the issuance of a Letter of Authority (LOA) covering the preceding year and the short period return for retiring businesses.	**21-22**

14. Bio-Resource Power Generation Corporation v. Commissioner of Internal Revenue, CTA Case No. 10372	30 July 2024	The CIR's inaction and omission to give due consideration to the arguments and evidence submitted before him/her by the taxpayer are deplorable transgressions of the taxpayer's right to due process.	**22-23**
15. Golden Donuts, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10336	30 July 2024	Revenue Memorandum Order (RMO) No. 04-2003 mandates that VAT taxpayers above certain thresholds submit electronic Summary Lists of Sales and Purchases. This system helps detect under declaration of revenues and over declaration of expenses. If discrepancies arise in assessment proceedings, taxpayers must submit schedules, reconciliations, and a sworn statement to verify their claims. The BIR must obtain sworn statements from third-party sources to verify data.	**23-24**
16. Avaloq Philippines Operating Headquarters v. Commissioner of Internal Revenue, CTA EB No. 2746 (CTA Case No. 10119)	31 July 2024	A taxpayer failing to prove that it is a VAT-registered entity, and not submitting proof that it is engaged in zero-rated or effectively zero-rated sales, cannot subject to zero percent (0%) VAT the services it renders to its foreign clients under Section 108 (B)(2) of the NIRC.	**24-25**
17. People of the Philippines v. Ziegfried Loo Tiaan, CTA EB Crim. No. 117	31 July 2024	Criminal actions are instituted by filing the information before the CTA, which shall interrupt the prescriptive period.	**25-26**
18. Alaska Milk Corporation v. Office of the City Treasurer and/or Davao City, CTA AC No. 272	02 August 2024	Given a party's failure to provide proof of its date of receipt of the assailed Order or the timeliness of the filing of a Petition for Review, the Court has no jurisdiction to entertain the same.	**26-27**
19. Commissioner of Internal Revenue v. The Residences at Greenbelt Condominium Corporation, CTA EB	05 August 2024	The CIR is not obliged to accept the taxpayer's explanations though he is mandated to give his reasons for rejecting the same and must also give the facts upon which his conclusions are based, and those facts must appear on record.	**27-28**

Case No. 2810 (CTA Case No. 9942)			
20. Commissioner of Internal Revenue v. Sellery Phils. Enterprises Inc., CTA EB Case No. 2756 (CTA Case No. 10047)	05 August 2024	An LOA is a safeguard against abuses that may be perpetrated by revenue officers against taxpayers. It guarantees a taxpayer that only persons named therein can examine his or her accounts and other accounting records. Hence, he or she has the right to deny other revenue officers not so named from auditing him or her for potential deficiency tax assessments	**28-29**
21. Commissioner of Internal Revenue v. Ong, CTA EB Case No. 2785 (CTA Case No. 10100)	05 August 2024	To comply with due process in the audit or investigation by the BIR, the taxpayer needs to be informed that the revenue officer has the proper authority to examine his books of accounts. The only way for the taxpayer to verify the existence of that authority is when, upon reading the LOA, there is a link between the said LOA and the revenue officer who will conduct the examination and assessment; and the only way to make that link is by looking at the names of the revenue officers who are authorized in the said LOA.	**29**
22. Country Bank v. Bureau of Internal Revenue, CTA EB Case No. 2760 (CTA Case No. 10864)	05 August 2024	In cases where a Warrant of Garnishment is issued in lieu of an FDDA, the 30-day period to file a Petition for Review with the CTA shall be reckoned from the taxpayer's receipt of the Warrant of Garnishment.	**29-30**
23. Sankyu-ATS Consortium-B v. Commissioner Internal Revenue, CTA Case No. 10495	06 August 2024	For applications or claims for refund of creditable input VAT filed with the concerned Revenue District Officer, the appealable decision to Court of Tax Appeals is not one issued by the corresponding RDO, but by the Regional Director.	**30**
24. Commissioner of Internal Revenue v. Asurion Hong Kong Limited-ROHQ, CTA EB Case No. 2752 (CTA Case No. 10121	06 August 2024	In the absence of any factual allegation and empirical proof that the CTA in Division has committed grave abuse of discretion, the CTA En Banc cannot disturb its factual findings. The CTA is not bound by law to take cognizance of the CIR's findings in administrative claims for refund because the CTA is mandated to conduct a trial de novo or a new trial on the entire case.	**30-31**

25. Xytrix Systems Corporation v. Commissioner of Internal Revenue, CTA Case No. 10629	06 August 2024	Tax assessments issued in violation of a taxpayer's due process rights are null and void. Such being the case, the subject tax assessments cannot be enforced against the petitioner, and the BIR has no right to collect the same.	**31**
26. PPD Pharmaceutical Development Philippines Corp. v. Commissioner of Internal Revenue, CTA Case No. 10348	06 August 2024	VAT zero-rated sales must be supported by VAT zero-rated official receipts (ORs) complete with the invoicing requirements in Section 113 (A) and (B) of the Tax Code.	**31-32**
27. Reyes v. Commissioner of Customs, Bureau of Customs, CTA Case No. 10340	07 August 2024	Section 1114 of CMTA also provides that forfeiture of vehicles is not allowed if it is established that the owner thereof has no knowledge of or participation in the conveyance or transportation of smuggled goods. A further seizure of the vehicle, vessel, or aircraft of the owner who is an innocent party to the crime would be inequitable and unjust.	**32**
28. Cohaco Merchandising & Development Corp. v. Secretary of Trade and Industry, CTA Case No. 10185	07 August 2024	The factual findings of the Tariff Commissions on the existence of conditions warranting the imposition of general safeguard measures are binding on the DTI Secretary since the latter is not authorized to alter, amend or modify in any way the determination made by the Tariff Commission.	**32-33**
29. Alphaland Southgate Tower, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10669	13 August 2024	The Supreme Court has already put an end to the practice of reassigning revenue officers through a memorandum of assignment without the issuance of a new Letter of Authority. Thus, a new revenue officer must be clothed with authority to conduct an audit via a new Letter of Authority.	**33-34**
30. Montalban Methane Power Corp. v. Commissioner of Internal Revenue, CTA Case No. 10334	13 August 2024	As part of the due process requirement in the issuance of tax assessments, the BIR must give reasons for rejecting petitioner's arguments and must give the particular facts upon which the conclusions for assessing the petitioner are based, and those facts must appear on record.	**34**
31. Petron Corp. v. Commissioner of Internal Revenue, CTA	14 August 2024	Ambiguities in tax laws should be construed against the government and in favor of tax payers. Thus, as alkylates	**34-35**

Case Nos. 10252 & 10297		cannot be classified as a product of distillation that is similar to naphtha and/or gasoline, the importation of the same is not subject to excise tax under the Tax Code.	
32. Tagala v. Commissioner of Internal Revenue, CTA Case No. 10720	14 August 2024	An LOA is the authority granted to a revenue officer assigned to perform tax assessment functions. It is premised on the fact that the examination of a taxpayer who has already filed the tax return is a power that statutorily belongs only to the CIR or his/her duly authorized representatives.	**35-36**
33. First Telecom Philippines, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10486	14 August 2024	An LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax.	**36**
34. Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue., CTA Case No. 7731	14 August 2024	The standing principle is that the "passing on" of the tax burden is largely a contractual affair between the parties and such affair does not determine the tax incidence imposed by law unless the contrary is provided.	**37-38**
35. Petron Corporation v. Commissioner of Internal Revenue, CTA Case Nos. 10232, 10266 &10267	15 August 2024	To be entitled to a refund or the issuance of a TCC, the following must be demonstrated: (1) the entity to which the taxpayer-claimant sold the petroleum products is an entity exempt by law from both direct and indirect taxes; and, (2) the taxpayer-claimant, as the statutory taxpayer, paid the excise taxes claimed on the petroleum products sold to the exempt entity.	**38-39**
36. Air Drilling Associates PTE LTD. V. Commissioner of Internal Revenue, CTA Case No. 10497	15 August 2024	In order to prove entitlement to credits for input taxes due or paid, the same must be evidenced by VAT invoices (for domestic purchases of goods) or ORs (for domestic purchases of services) issued in accordance with Section 113 Tax Code, as amended, as the case may be, as well as the import entry or other equivalent documents showing actual payment of VAT (for importation of goods) and BIR Form No. 1600 with corresponding payment confirmation.	**39-40**

37. Manila Electric Company v. Central Board of Assessment Appeals, Local Board of Assessment Appeals of Bacoor City, Cavite, Office of the City Treasurer of Bacoor, represented by Atty. Edith C. Napalan, City Treasurer of Bacoor City, CTA EB No. 2736	15 August 2024	MERALCO's electric posts are not exempt from real property tax under the Local Government Code without qualification. However, in taxing machineries, the Supreme Court has ruled that every machinery must be individually appraised and assessed and that the Local Government Code mandates that the taxpayer be given a notice of assessment.	**40-41**
38. Gamma Gray Marketing v. Bureau of Customs, represented by its Commissioner, Isidro S. Lapena, CTA EB No. 2738	15 August 2024	It is the responsibility of the importer to ensure the accuracy of the information contained in the goods declaration which includes the declared value of the imported goods. In case of doubt as to the valuation of the imported goods, and to aid in the of valuation of imported goods, the CMTA provides for the sequential application of valuation methods.	**41-43**
BIR REVENUE REGULATIONS ("RRs")			
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2. RR No. 14-2024	14 August 2024	Rules and regulations governing the modes of disposition of seized/forfeited articles in line with Section 130, 131 and 225 of the National Internal Revenue Code of 1997, as Amended	**44**
3. RR No. 15-2024	15 August 2024	Prescribing policies and guidelines in the mandatory registration of persons engaged in business and administrative sanctions and criminal liabilities for non-registration	**44-45**
BIR REVENUE MEMORANDUM ORDERS ("RMOs")			

1. RMO No. 28-2024	11 July 2024	Further Amending Revenue Memorandum Order (RMO) No. 24-007, as amended by RMO No. 22-2009, on the Preparation, Consolidation and Monitoring of BIR Form No. 1770 (Comparative Monthly Summary of Tax Returns/Payments Forms Filed) and its Prescribed Format	**45-46**
2. RMO No. 29-2024	22 July 2024	Amending RMO No. 11-2024, prescribing the revised allocation of the CY 2024 BIR Collection Goal, by Implementing Office	**46**
3. RMO No. 30-2024	29 July 2024	Amending certain provisions of RMO No. 24-2024	**46**
4. RMO No. 31-2024	08 August 2024	Revised Customer Satisfaction Survey Form under Client Support Service	**47**
5. RMO No. 32-2024	13 August 2024	Policies and Procedures in the Certification of Total National Tax Collections from Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) and the Corresponding Seventy - Five Percent (75%) Share of the Bangsamoro Government (BG)	**47**
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2. RMC No. 80-2024	17 July 2024	Availability of the new BIR Website	**48**
3. RMC No. 81-2024	18 July 2024	Tax Treatment of Sukuk (Islamic Bond) as Islamic Banking Arrangement Pursuant to the Tax Neutrality Provision of Republic Act No. 11439 (An Act Providing for the Regulation and Organization of Islamic Banks) as Implemented by Revenue Regulations No. 17-2020	**48-49**
4. RMC No. 82-2024	26 July 2024	Circularizing the mandatory display of National Privacy Commission Seal of Registration	**49-50**
5. RMC No. 83-2024	30 July 2024	Tax returns/payment forms generated from the Electronic One-Time Transaction System	**50**
6. RMC No. 84-2024	30 July 2024	Clarification on the publication of revenue issuances under Section 245 of the National Internal Revenue Code of	**50**

		1997, as amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act," as implemented by Revenue Regulations No. 2-2024	
7. RMC No. 85-2024	30 July 2024	Circularizing Republic Act No. 12001, titled "An Act Instituting Reforms in Real Property Valuation and Assessment in the Philippines, Reorganizing the Bureau of Local Government Finance, Granting of Tax Amnesty on Real Property, and Special Levies on Real Property, and Appropriating Funds Therefor."	**50**
8. RMC No. 86-2024	05 August 2024	Circularizing the New BIR Logo	**51**
9. RMC No. 87-2024	07 August 2024	Frequently asked questions relative to the filing of tax returns and payment of taxes pursuant to Revenue Regulations No. 4-2024, Implementing the Provisions of Republic Act No. 11976, Otherwise Known as "Ease of Paying Taxes (EOPT) Act"	**51-52**
10. RMC No. 89-2024	13 August 2024	Clarifying the taxability of income derived by Local Government Units engaged in proprietary functions	**52-53**
11. RMC No. 91-2024	14 August 2024	Clarification on Registration Procedures Pursuant to Revenue Regulations No. 7-2024, as amended by Revenu Regulations No. 11-2024	**53-56**

DISCUSSION

COURT OF TAX APPEALS DECISIONS

1. ***Misamis Oriental Rural Electric Service Cooperative I, Inc., (MORESCO I) v. Commissioner of Internal Revenue,* CTA Case No. 10206, 16 July 2024**

Cooperatives registered with the National Electrification Administration (NEA) are exempt from paying income taxes under Section 39 of Presidential Decree No. 269 (PD 269).

Respondent Commissioner of Internal Revenue assessed petitioner MORESCO I for deficiency income tax amounting to Php40,963,950.55. Petitioner prayed that the Court nullify and cancel respondent's Final Decision on Disputed Assessment (FDDA). Petitioner asserts that pursuant to PD 269 and RMC No. 72-2003, it is permanently exempt from the payment of income tax. Respondent counters that PD 269 and related issuances, such as Fiscal Incentive Review Board (FIRB) Resolution 24-87, will show that petitioner is not exempt from income tax. The Court thus ruled on whether or not MORESCO I is permanently exempt from the payment of income tax.

The Court ruled that MORESCO I is exempt. Under Section 39 of PD 269, cooperatives registered with the NEA are permanently exempted from paying income taxes. This was later withdrawn by E.O. No. 93, but subsequently restored by R.A. No. 6938 (Cooperative Code) which reinstated tax exemptions for cooperatives registered with the Cooperative Development Authority (CDA). Citing *Samar-1 Electric Cooperative, Inc. v. Commissioner of Internal Revenue*, the Court held that the cooperative is exempt from paying income tax because: (1) registration with the CDA was optional for cooperatives already registered with the NEA; and (2) E.O. No. 93 is inconsistent with the Cooperative Code, which thus repealed the former.

PD 269 and the Cooperative Code share a similar principle: to grant tax exemptions to registered cooperatives. E.O. No. 93 contradicts this by withdrawing such tax exemptions. The Cooperative Code thus repealed said Order while refraining from modifying PD 269. By extension, the Cooperative Code also repeals FIRB Resolution No. 24-87, as far as said Resolution reiterates E.O. No. 93's withdrawal of income tax exemptions for cooperatives. As such, the Cooperative Code effectively reinstates the tax exemptions granted by PD 269 to electric cooperatives that had registered with the NEA, without further requiring them to register with the CDA. Petitioner's Certificate of Registration proves that it was registered with the NEA. It is thus exempt from income tax under PD 269. Considering petitioner's exemption from income tax, the assessment against it for alleged deficiency income tax has no basis in law.

2. ***People of the Philippines v. Hon. Ana Teresa T. Cornejo-Tomacruz, Rappler Holdings Corporation, and Maria A. Ressa,*** **CTA SCA Case No. 0014, 16 July 2024**

Rappler Holdings Corporation (RHC) and Maria Ressa were charged for violation of Section 255 of the NIRC of 1997, for failing to supply correct and accurate information in the quarterly value-added tax return of RHC for the second (2nd) quarter of tax year 2015. Ressa was acquitted by the RTC and the civil aspect of the case was dismissed. The Motion for Reconsideration was also denied. The Court thus passed upon the following issues: 1) whether the Respondent Judge gravely abused her discretion when she ignored the overwhelming evidence establishing Ressa's guilt; and 2) whether the Respondent Judge grossly interpreted the law and ruled that no civil liability may be adjudged against Ressa?

The Court ruled that there is no grave abuse of discretion. In our jurisdiction we adhere to the finality-of-acquittal doctrine, where a judgment of acquittal is final and unappealable. A judgement of acquittal whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation. The exception to this would be an erroneous acquittal where a petition for certiorari may be availed of.

The court cited *People of the Philippines v. Sandiganbayan* (First Division) where grave abuse of discretion was defined as "capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction;" and "no grave abuse of discretion may be attributed to a court simply because of its alleged misapplication of facts and evidence, and erroneous conclusions based on said evidence. Certiorari will issue only to correct errors of jurisdiction, and not errors or mistakes in the findings and conclusions of the trial court."

In this case, Petitioner failed to prove the guilt of Ressa beyond reasonable doubt.

The Court cannot delve into the propriety of Public Respondent's appreciation of the parties' evidence that led to its findings and conclusion. Assuming that there was a mistake on the part of the Respondent Judge in assessing the evidence presented by the parties, the same cannot be remedied by certiorari. Based on the People v. Sandiganbayan case, the writ of certiorari will issue only to correct errors of jurisdiction, not

errors or mistakes in the findings and conclusions of the trial court. The instant petition did not seek to correct errors of jurisdiction, but to reverse the alleged mistake in the findings of the Respondent Judge.

3. *People of the Philippines v. Ziegfried Loo Tian,* CTA EB Crim. No. 112, 16 July 2024

The prescriptive period for prosecuting violations of the National Internal Revenue Code (NIRC) is interrupted only by filing an Information before the Court of Tax Appeals (CTA), not by filing a Joint Complaint-Affidavit (JCA) with the Department of Justice (DOJ).

The BIR filed a Joint Complaint-Affidavit (JCA) with the DOJ on 05 July 2012 against Ziegfried Loo Tian for willful tax evasion. The DOJ recommended filing an Information against Tian before the CTA, and Tian's Motion for Reconsideration was denied. The BIR then filed its Information on 26 October 2022, which was dismissed for prescription by the Court in Division. The BIR's Motion for Reconsideration was also denied.

The BIR argues the prescriptive period was interrupted by filing the JCA with the DOJ. Tian contends the period is interrupted only by filing an Information before the CTA, making the prosecution time barred. Tian also claims his right to a speedy disposition was violated as the Information was filed 10 years after the JCA. The Court thus ruled on whether the government's right to prosecute the case is now barred by prescription?

The Court ruled that while the BIR may have filed both its Motion for Reconsideration and Petition for Review on time, the Information was not filed on time. The Court in Division cited, Rule 9, Section 2 of the RRCTA in both its 1st and 2nd assailed Resolutions, which provides that "*[a]ll criminal actions before the Court in Division in the exercise of its original jurisdiction shall be instituted by the filing of an information in the name of the People of the Philippines…[t]he institution of the criminal action shall interrupt the running of the period of prescription."*

The filing of an Information before said CTA institutes the criminal action and interrupts the relevant prescriptive period. Petitioner's main argument, that the prescriptive period both began and was interrupted by the filing of the JCA before the DOJ, thus fails. It is clear that the RRCTA expressly includes a rule governing the interruption of the prescriptive period for prosecuting violations of the NIRC.

Petitioner BIR filed its JCA with the DOJ on 05 July 2012. Thus, it had only until 05 July 2017 before its right to prosecute the case prescribed, following the five-year period provided by Section 281 of the NIRC. However, it filed its Information before the Court in Division on 26 October 2022, 10 years, and 113 days after the filing of the JCA and 5 years and 113 days after the end of the five-year period.

4. *MSCI Hong Kong Limited v. Commissioner of Internal Revenue,* CTA Case No. 10474, 17 July 2024

A VAT-registered taxpayer must comply with the requisites under Sec. 112(A) of the NIRC and those established by jurisprudence, and must ensure the same is substantiated with proper documents, to be entitled to a refund of input taxes.

Petitioner is the Philippine Branch of MSCI Hong Kong Limited, licensed by the SEC to establish its regional office in the Philippines, in order to engage in index benchmarking, portfolio risk and performance analytics and research support services. It filed with the BIR an Application for Tax Credits/Refunds,

accompanied by a Revised Checklist of Mandatory Requirement on Claims for VAT Refund, for the period 01 April 2018 to 31 December 2018 in the amount of Php10,813,448.05.

The BIR only partially granted their administrative claim for refund in the amount of Php5,523,776.22. Hence the present Petition for Review. Petitioner sought to be granted a refund over the disallowed portion of their administrative claim in the amount of Php5,289,571.33 for the period 01 April 2018 to 31 December 2018.

Petitioner claimed that as a VAT-registered entity, it was entitled to the refund of its excess and unutilized input VAT attributable to their zero-rated sales of service for the period of claim in the amount of Php5,289,571.33. The sales were made to its non-resident affiliates doing business outside the Philippines. Meanwhile, the Commissioner of Internal Revenue contends that petitioner failed to submit documents essential to its claim for refund and also failed to comply with Sec. 112(A) of the NIRC of 1997, as amended.

The Court discussed the essential elements for a sale/supply of services to be subject to VAT at zero percent (0%):

1. The recipient of the services is a foreign corporation, and the said corporation is doing business outside the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services are performed;
2. The services fall under any of the categories under Section 108(B)(2),69 or simply, the services rendered should be other than "processing, manufacturing or repacking goods";
3. The service must be performed in the Philippines by a VAT-registered person; and
4. The payment for such services should be in acceptable foreign currency accounted for in accordance with BSP rules.

Applicants for VAT refund/credit must comply with the substantiation and invoicing requirements under the NIRC of 1997, as amended, as this is the only way to determine the veracity of the taxpayer's claims and is mandatory.

Petitioner was found to have substantially complied with the foregoing requirements, but not all of the input VAT they claimed were duly substantiated. The amount filed for refund was higher than their total input VAT per Quarterly VAT Returns for the 2nd to 4th quarters of 2018. After further and final examination, the Court partially granted the petition and ordered to refund the petitioner the amount of Php4,046,018.97.

5. ***Victor R. Del Rosario Rice Mill Corporation v. Hon. Rey Leonardo B. Guerrero, Atty. Erastus Sandino Austria, and the Bureau of Customs,*** **CTA Case No. 10082, 18 July 2024**

The petitioner applied for rice import permits with the NFA and paid customs duties in advance. The NFA issued the permits late, and the petitioner filed the import entries for the shipments on different dates in 2018. The District Collector and BOC sent a Notice to Pay via email, which the petitioner claims not to have received. The notice stated the shipments were "assessed but not yet paid" for June to December 2018, directing immediate payment or deeming the shipments abandoned under Section 1129(c) of the CMTA.

The petitioner argued the delay was due to late shipping documents and delayed import permits, but the District Collector upheld the abandonment decrees. The CTA Division dismissed the petitioner's appeal, which was then taken to the Court en banc.

Petitioner maintains that the Consolidated Order (dated 01 April 2019) is the decision duly appealable to the Court. Thus, the 30-day period should be reckoned from its receipt thereof on 02 May 2019. However,

the Court in Division held that the assailed Decision should have been appealed by the petitioner to the Commissioner of Customs (COC) on or before 17 May 2019, which is 15 days from 02 May 2019, pursuant to Paragraphs 4 and 5 of CMO No. 17- 2019.

The Court thus ruled whether the proper recourse by the petitioner upon receipt of the Consolidated Order was to appeal to the CTA, and whether the petitioner has sufficiently proven its payment of customs duties and taxes on the subject shipments.

The Court discussed that CMO No. 17-2019, which repealed CMO No. 18-2014 and amended inconsistent issuances, was promulgated on 15 April 2019. It was already in effect when the petitioner received the Consolidated Order on 02 May 2019. Despite the fact that CMO No. 18-2014 was in effect when the Decrees of Abandonment were issued, CMO No. 17-2014 was in effect when it was received by the petitioner. Hence, exhaustion of the administrative remedies of 17-2019 was required before a judicial appeal can be made.

The petitioner should have appealed the COC's Consolidated Order within 15 days, as specified by Section 114 of the CMTA. This follows the doctrine of exhausting administrative remedies, requiring parties to first seek resolution from appropriate administrative authorities before approaching the court. Paragraphs 4 and 5 thereof are clear that (a) an order denying a Motion to Recall shall be transmitted to the COC; (b) the COC shall confirm such order; and (c) the duly confirmed decision of the District Collector shall attain finality unless appealed to the COC.

Due to petitioner's failure to file an appeal to the COC after its receipt of the Consolidated Order, the same has attained finality. Hence, the Court in Division lacked jurisdiction over the original petition.

Further, the Court held that the petitioner's LBP Debit Advice Forms are insufficient to prove the alleged payment. The debit from petitioner's account does not automatically translate to a direct credit to respondent's account for payment of taxes and duties. Instead, the amounts debited were merely earmarked for future payments to the BOC. The crediting to respondent's account shall only be processed after the issuance of assessment notices. The foregoing procedures are consistent with those laid down in Customs Administrative Order (CAO) No. 10-2008.

The "Payment Confirmation" referred to in Section 4.2.4 of CAO No. 10-2008 should have been presented to prove payment of taxes. Hence, the payment of the assessed customs duties and taxes were not duly proven by the petitioner.

6. ***Pentagon Gas Corporation v. Commissioner of Internal Revenue,*** **CTA Case No. 10868, 19 July 2024**

A whole or partial denial by the Commissioner of Internal Revenue (CIR)'s authorized representative may be appealed to the CIR or the CTA. In turn, a whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA.

Petitioner Pentagon Gas Corporation seeks to cancel and set aside the Warrant of Distraint and/or Levy (WDL) and Warrants of Garnishments (WoGs), issued by the respondent CIR to collect the alleged deficiency tax assessments in the aggregate amount of P27,666,395.21 for taxable year (TY) 2014 as contained in the Final Decision on Disputed Assessment (FDDA).

Petitioner asserts that the respondent's assessment has prescribed. Respondents assert that the reckoning point of the 30-day period is from the FDDA's receipt, that is, on 11 June 2021. Petitioner then had until 11 July 2021 to file the petition. Hence, petitioner filed their appeal out of time.

The Court ruled that The CTA has no jurisdiction over the case. Citing Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, (G.R. No. 208731, 27 January 2016), a whole or partial denial by the CIR's authorized representative may be appealed to the CIR or the CTA. A whole or partial denial by the CIR may be appealed to the CTA. The CIR or the CIR's authorized representative's failure to act may be appealed to the CTA.

On 11 June 2021, petitioner received the FDDA denying petitioner's Protest and declared the assessments final and demandable.

Pursuant to RR No. 12-99, as amended by RR No. 18-13, the proper remedy for petitioner was to file a Petition for Review before the CTA within 30 days from receipt of the FDDA, or until 11 July 2021. However, instead of appealing to this Court, petitioner opted to file a letter-reply to the FDDA before the Office of the CIR on 25 June 2021.

Petitioner could be deemed to have filed an administrative appeal with the CIR through a Motion for Reconsideration (MR). As provided clearly in Section 3.1.4 of RR No. 12-99, as amended by RR No. 18-13, petitioner's resort to file an MR with the CIR did not toll the running of the 30-day prescriptive period to appeal before the CTA.

The factual milieu of the case is similar to that of Fishwealth Canning Corporation v. Commissioner of Internal Revenue, (G.R. No. 179343, 21 January 2010) wherein the petitioner seemingly waived its remedy of judicial appeal when it filed a letter of reconsideration with the CIR, instead of elevating the issue to the CTA.

Almost two (2) years have lapsed from petitioner's receipt of respondent CIR's final decision (or the FDDA) before it filed an appeal with this Court. Considering the amount of time that elapsed, this Court's lack of jurisdiction to entertain the original Petition for Review becomes indisputable.

The protest filed was also found to be not compliant with the proper requirements. Pursuant to CIR v. CTA (G.R. No. 239464, 10 May 2021) a valid protest to the FLD must contain: (i) the nature of the 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 the protest is based, otherwise, his protest shall be considered void and without force and effect.

Here, the petitioner did not indicate: (i) the date of receipt of the ANs and the FLD; (ii) the itemized statement of findings to which the taxpayer agrees and schedule of adjustments to which the taxpayer does not agree; and, (iii) a statement of the facts, applicable law, rules and regulations or jurisprudence in support of the protest, in its protest.

7. ***R.A. Tagala & Co. Ventures, Inc. (now RATC Ventures, Inc.) v. Commissioner of Internal Revenue,*** **CTA Case No. 10217, 19 July 2024**

The reassignment or transfer of a Revenue Officer (RO) requires the issuance of a new or amended Letter of Authority (LOA) for the substitute or replacement of an RO to continue the audit or investigation.

On 08 April 2016, OIC Regional Director Eduardo Pagulayan issued an LOA authorizing ROs Rosal and Quintos of Revenue District Office (RDO) No. 1 of Laoag City, Ilocos Norte to examine Tagala's book of accounts.

On 21 November 2017, a Memorandum of Assignment was issued by Benjamin Virtucio Jr. (Head of Investigation Office) of RDO No. 54B of Rosario, North Cavite addressed to RO Belen Jr. and Lozada stating that the case/docket of Tagala was transferred to them for continuation of audit/investigation. It is through this authority that RO Belen Jr. And Lozada forwarded to the Office of the Regional Director an assessment notice against Tagala.

Subsequently, a Formal Letter of Demand (FLD) was issued against Tagala. The said FLD detailed Tagala's tax deficiencies in the amount of Php18,685,328.71, which was later on decreased to Php8,573,074.02 through a Final Decision on Disputed Assessment (FDDA) dated 18 October 2019. These deficiencies are broken down into the following:

1. Income tax – Php2,894,149.07
2. VAT – Php4,100,801.26
3. IAET – Php1,541,123.69

Tagala argues that:

1. The respondent violated its right to due process by arbitrarily issuing deficiency tax assessments based on mere estimates disregarding the documents Tagala presented during the meetings; and

2. The audit and investigation of the books of accounts and other accounting records was null and void.

The Court ruled that the subject tax assessments are void because the RO who conducted the investigation of Tagala was not duly authorized to do so.

From the testimony of RO Belen Jr., his authority to continue Tagala's audit was based solely on the MOA issued by Virtucio, Jr. However, the Court held that a MOA is not equivalent to a Letter of Authority, and therefore does not cure RO Belen, Jr.'s lack of authority. Therefore, since the RO who conducted the examination of Tagala's books and who also recommended the issuance of the tax assessment does not have the authority to do so, the subject tax assessments issued against Tagala are void and without effect.

The legal effect of the absence of an LOA is the nullity of the examination and assessments for violation of Tagala's right to due process.

The Court also cited the case of *CIR v. McDonald's Phil.* where the Court held that the practice of reassigning or transferring revenue officers originally named in the LOA and substituting them with new revenue officers to continue the audit without a separate or amended LOA:

1. Violates the taxpayer's right to due process;

2. Usurps the statutory power of the CIR or his duly authorized representative to grant the power to examine the books of accounts of a taxpayer; and

3. Does not comply with existing BIR rules and regulations.

8. *Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue*, CTA EB NO. 2732 (CTA Case No. 10097), 19 July 2024

The Petitioner's Monetary Board (MB) banned Community Rural Bank of Dalaguete (Cebu), Inc. (CRBD) from doing business in the Philippines. CRBD's assets and affairs were also placed under receivership. In Resolution No. 345, petitioner's MB ordered the liquidation of CRBD.

During the proceedings, Petitioner's three real properties were assigned to PDIC as its receiver/liquidator. Bureau of Internal Revenue (BIR) issued three (3) One Time Transaction (ONETT) Sheets, computing the DST, surcharge and interest for the above transactions in the total amount of Php68,758.95, which was allegedly paid under protest by Petitioner. Petitioner filed three (3) separate administrative claims for refund of the DST, surcharge, and interest it allegedly paid on the three (3) real properties. The CTA division dismissed the case for lack of jurisdiction.

The Court en banc, however, ruled that the CTA division has jurisdiction. Pursuant to Section 7(a)(1) of R.A. No. 1125, as amended by R.A No. 9282, the decisions of the Commissioner of Internal Revenue (CIR) which are appealable to the CTA is not limited only to cases involving disputed assessments (which entails the filing of a protest to the Final Assessment Notice) or refund claims, but also includes "other matters" arising under the said laws. 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 CTA to have exclusive jurisdiction to resolve all tax problems.

P.D. No. 242, which prescribes the procedures in settling administratively the disputes between or among government offices, agencies and instrumentalities, including government-owned or controlled corporations ("GOCCs"), does not apply.

Only disputes and controversies solely between or among departments, bureaus, offices, agencies and instrumentalities of the National Government, including GOCCs, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.

P.D. 242 only applies in the resolution of disputes regarding government offices or agencies under the Executive Branch, or those under the President's control and Supervision.

Although Respondent CIR is under the President's executive control and supervision, Petitioner Bangko Sentral is neither under the Executive Branch of the government nor under the President's supervision and control. It was established as an independent central monetary authority that enjoys fiscal and administrative autonomy pursuant to R.A. No. 7653.

9. *Tridharma Marketing Corp. v. Commissioner of Internal Revenue,* CTA Case No. 10907, 22 July 2024

The two-year period to file for a tax refund starts on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted.

The Petitioner, Tridharma Marketing Corp., filed a request with the BIR for the compromise of income tax and VAT assessments for the year 2010. It offered to pay Php50 million for the income tax assessment and Php20 million for the VAT Assessment.

The CTA Second Division rendered a decision holding that Tridharma must pay Php32,058,426.73, plus delinquency interests. Both parties appealed this decision but while the case was pending, the parties entered into a Judicial Compromise Agreement (JCA) which was approved by the CTA En banc.

Following the finality of the CTA En Banc's decision, Tridharma filed a Letter with the BIR to claim for refund of the Php20 million compromise offer it paid in connection with the 2010 VAT Assessment. This was denied by the respondent on the ground that it was filed beyond the two-year period for the filing of refunds under Sec. 229 of the NIRC.

Tridharma argues that it is entitled to the refund of the compromise offer on the ground of unjust enrichment.

The Court ruled that the respondent Commissioner of Internal Revenue must refund in cash the compromise it paid amounting to Php20 million.

Under the parties' JCA, it is expressly provided that the JCA was executed for the purpose of amicably settling and terminating the CTA Case and the petitions filed relative thereto (i.e. 2010 Assessment). Moreover, Sec. 1 of the said JCA is clear and categorical that in order to settle the case, Tridharma paid, and the BIR accepted, the total compromise amount of Php65 million. There is nothing in the said JCA which mentions that the Php20 million compromise was intended by the parties as additional compensation on top of the Php65 million Judicial Compromise Amount.

The Court also cited *CIR v. Univation Motor Phils.* and held that the two-year period to file for a tax refund starts on the date of the filing of the adjusted final tax return because this is where the figures of the gross receipts and deductions have been audited and adjusted. "Thus, it is only when the Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures."

10. *Li-Son Transport Services Inc. v. Commissioner of Internal Revenue*, CTA Case No. 10631, 23 July 2024

To validly protest a tax assessment, such protest must comply with proper legal and jurisprudential requirements.

Petitioner Li-Son Transport prays for the cancellation of respondent's assessments against it for deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), and improperly accumulated earnings tax (IAET) in the total amount of Php5,536,177.47 for the calendar year (CY) 2018, inclusive of interest, surcharges, and compromise penalties, as laid out in the Formal Letter of Demand with Details of Discrepancies and Assessment Notices (FLD /FAN).

Petitioner argues that the Letter of Authority (LOA) authorizing the examination (from where its alleged deficiency taxes for CY 2018 arose) is void as it had not been personally served upon any of its duly authorized representatives. The respondent argues that the protest was not valid for several defects.

The Court ruled that it has no jurisdiction. To validly protest against a FLD/FAN, the following must be stated in the protest: (i) the nature of the 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. Failure to comply with these mandatory prerequisites renders the protest void and devoid of legal force and effect.

The petitioner's protest has several issues, including the omission of the receipt date of the FLD/FAN and the lack of an itemized statement of findings and a schedule of contested adjustments. These omissions make it difficult to discern which findings are accepted or disputed. Additionally, the protest lacks a factual narrative with legal citations. Filing a petition for review before validly contesting the assessment with the Commissioner of Internal Revenue makes the appeal premature, and the Court of Tax Appeals lacks jurisdiction.

The validity of the assessment depends on the definiteness of the amount indicated in the FLD/FAN and the payment deadline. If the FLD/FAN meets these requirements, it should not be considered deficient. The use of the phrase "you are requested to pay your aforesaid deficiency ..." does not invalidate the FLD/FAN, as this phraseology is standard in the pro-forma Formal Letter of Demand in Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-2013.

The Court also ruled that what is proscribed in an assessment is an indefinite amount of total tax due or liability, not the amount of interest. Even if interest must be definite and calculated by the due date, it remains determinable. The FLD/FAN specifies the periods for interest on deficiencies: Income Tax (16 April 2019 to 15 November 2020), VAT (26 January 2019 to 15 November 2020), EWT (16 January 2019 to 15 November 2020), and IAET (16 April 2019 to 15 November 2020). Interest is noted to adjust if taxes are paid after these dates. The indefiniteness of interest is logical per Section 249 of the NIRC of 1997, as amended, which states interest accrues from the payment due date until full payment. The BIR cannot predict the payment date when issuing the FLD/FAN.

11. ***Halliburton Worldwide Limited v. Commissioner of Internal Revenue,*** **CTA Case No. 10467, 26 July 2024**

Petitioner Halliburton Worldwide Limited, is the Philippine branch office of Halliburton Worldwide Limited, a corporation duly organized and existing under the laws of the Cayman Islands. On 15 July 2020, petitioner filed with the BIR RDO No. 53B its Application for Tax Credits/Refunds (BIR Form No. 1914), an administrative claim for refund of its alleged unutilized input VAT in the amount of Php7,287,179.51, for the four (4) quarters of CY 2018.

Petitioner argues that its sales to Energy Development Corporation (EDC) and Philippine Geothermal Production Company (PGPC) must be conferred VAT zero-rating, because sales to registered renewable energy developers are automatically subject to 0% VAT, and that it satisfied all the conditions for the grant of input VAT refund under Section 112 of the NIRC, as amended.

Respondent counters that Petitioner's input VAT refund claim must be rejected because: one, the Petition for Review was prematurely filed; two, Petitioner failed to prove that its sales to EDC and PGPC are zero-rated; three, Petitioner failed to prove that there was an actual offsetting of accounts to prove that constructive foreign currency exchange proceeds were inwardly remitted as required under Section 106(A)(2)(a); and four, VAT invoices or official receipts presented by Petitioner failed to comply with the invoicing requirements under the law.

The Court ruled that Petitioner is entitled to an input VAT refund, only to the extent of Php249,846.52.

The Court cited that to prove entitlement to credits for input taxes due or paid, one must not only present the supporting documents prescribed under Sec. 4.110-8 of Revenue Regulations (RR) No. 16-2005. In addition, these documents must comply with the invoicing requirements under Sec. 113(A) and (B), 237 and 238 of the NIRC, as amended, as implemented by Sec. 4.113-1(A) and (B) of RR No. 16-2005.

Specifically, the claim must conform to the following:

a. The refund claim is filed with the BIR within 2 years after the close of the taxable quarter when the sales were made;
b. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 90 days, the judicial claim has been filed with the Court within 30 days from receipt of the decision or after the expiration of the 90-day period;
c. The taxpayer is a VAT-registered person;
d. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
e. For zero-rated sales under Sec. 106(A)(2)(a)(1), (2) and (b) and Sec. 108(B)(1) and (2), the acceptable foreign exchange currency proceeds have been duly accounted for in accordance with the BSP's regulations;
f. The input taxes are not transitional input taxes;
g. The input taxes are due or paid;
h. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;
i. The input taxes have not been applied against output taxes during, and in the succeeding quarters.

The Court found that, aside from defects in invoicing requirements leading to partially disallowed claims, petitioner had no reported output tax for the four (4) quarters of CY 2018 as its reported sales/receipts were all zero-rated sales/receipts. Thus, it had no output VAT against which the reported input VAT claim of Php7,287,179.51 may be applied or credited. Although petitioner carried-over the subject claim of Php7,287,179.51 to the succeeding quarters, the same remained unutilized until it was deducted as "VAT Refund/TCC claimed" in its 1st Quarterly VAT Return for CY 2020, preventing the carry-over or application of such input taxes in the next taxable quarter/s.

12. *SL Harbor Bulk Terminal Corp. v. Commissioner of Internal Revenue*, CTA Case No. 10250, 26 July 2024

On 20 January 2020, the Petitioner, SL Harbor Bulk Terminal Corp., filed an Administrative Claim for Tax Credit covering excise taxes paid for the first quarter of 2018.

SL Harbor argues that it is entitled to a tax credit for erroneously paid excise tax representing excise taxes it paid for the importation of bunker fuel and diesel oil, which were subsequently sold to entities exempt from indirect or direct taxation, as provided under special laws.

Respondent Commissioner of Internal Revenue (CIR) argues that Petitioner is not entitled to the claim because the judicial claim was filed out of time and that Petitioner failed to prove its entitlement.

The Court ruled that Sec. 204(C) and Sec. 229 of the NIRC of 1997 are clear that within two (2) years from the date of payment of tax, the claimant must first file an administrative claim with the Commissioner of Internal Revenue (CIR) before filing its judicial claim with the courts of law. Both claims, however, must be filed within a two-year reglementary period. The timeliness of filing is mandatory and jurisdictional. No suit or proceeding shall be filed after two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment. Here, both the administrative and judicial claims were filed within the two (2) year prescriptive period, thus the Court has jurisdiction to entertain the claim.

When the amended complaint does not introduce new issues, cause of action, or demands, the suit is deemed to have commenced on the date the original complaint was filed.

The Court likewise cited the requisites to claim a tax credit or refund of erroneously or illegally collected excise taxes paid on imported fuel sold to tax-exempt entities:

a. The claim was filed within the two-year prescriptive period as provided under Sec. 204(C) and Sec. 229 of the NIRC of 1997;
b. That the entity to which the petitioner sold the petroleum products is an entity exempt by law from indirect and direct taxes; and
c. The petitioner is the statutory taxpayer and actually paid the claimed excise taxes on the same petroleum products sold to the exempt entity.

The Court however denied the claim, citing the case of *Coca-Cola Bottlers Phil. v. CIR*, where the Court declared that actions for tax refund or credit are in the nature of a claim for exemption and the law is not only construed *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven. The burden is on the taxpayer to show that he or she has strictly complied with the conditions for the grant of the tax refund or credit, and in this case, the Petitioner failed to present sufficient evidence to warrant the claim.

13. *Glend Agnes Llantada (Serviplus Medical Equipment Services and Supply) v. Commissioner of Internal Revenue*, CTA Case No. 10468, 26 July 2024

Petitioner Glend Agnes Llantada was the sole proprietor of Serviplus Medical Equipment Services & Supply. Respondent issued to Petitioner a Letter of Authority (LOA) with SN: eLA201500079628 / LOA-028-2018-00000120 dated 25 April 2018, covering the period January 1, 2015 to July 19, 2016, for all internal revenue taxes, including documentary stamp tax and other taxes (miscellaneous), for the taxable period from 01 January 2015 to 19 July 2016.

Respondent found Petitioner liable for deficiency taxes and compromise penalty in the aggregate amount of Php7,620,157.95. After petitioner filed his Protest, the Respondent still found him liable for the reduced amount of Php4,342,320.67. The Petitioner thereafter filed a Request for Reconsideration of the FDDA before the Office of the Commissioner of Internal Revenue. This was denied by the Respondent. The Commissioner cited that: 1) Petitioner was audited pursuant to a valid audit program under Revenue Memorandum Order (RMO) No. 19-2015; 2) the assessments issued against the Petitioner for the deficiency income tax, VAT liabilities and compromise penalty have factual and legal bases; 3) the assessments issued against Petitioner have become final, executory, and demandable; 4) Respondent's right to assess the deficiency taxes has not yet prescribed pursuant to a validly executed waiver of statute of limitations; and 5) tax assessments are presumed to be correct.

Petitioner, on the other hand, contends that the reply to the Preliminary Assessment Notice (PAN) was not considered by the BIR and thus in violation of due process because it did not even comment or address the defenses and documents submitted by the former; that the Request for Reconsideration with respondent was filed on time while Respondent failed to show that it served Petitioner with a copy of the Decision dated June 26, 2020; that the LOA issued to Petitioner covered more than one taxable year, contrary to RMO No. 43-90 as well as existing jurisprudence; that the BIR's period to assess petitioner had already prescribed; that Petitioner's allegedly executed waiver is void; and that Petitioner is not liable for alleged deficiency income tax, VAT, EWT, and compromise penalty.

The Court ruled that Petitioner's right to administrative due process was violated. Hence, the assessments were found to be void.

Under Section 228 of the NIRC of 1997, it is explicitly required that the taxpayer be informed in writing of the law and of the facts on which the assessment is made; otherwise, the assessment shall be void. The requirement that the taxpayer must be informed of the factual and legal bases of the assessment is mandatory. It cannot be presumed. As a requirement of due process, this rule allows the taxpayer to make an effective protest. To be sure, the requirement set by law to state in writing the factual and legal bases for the assessment is not a hollow exhortation. The law imposes a substantive, not merely a formal requirement. Furthermore, it must be emphasized that failure to comply with Section 228 does not only render the assessment void, but also finds no validation in any provision of the Tax Code.

A significant part of the due process requirement in the issuance of tax assessments is that the taxpayer concerned must be informed, in writing, of the law and of the facts on which the assessment is made. Such requirement must be embodied in the PAN, FLD/FAN, and FDDA. Specifically, when the Commissioner of Internal Revenue rejects the taxpayer's explanations, he/she must give some reason for doing so and the particular facts and law upon which its conclusion are based, and those facts must appear in the record.

In the Reply to the PAN, Petitioner made certain refutations against the findings of the BIR relative to the foregoing deficiency taxes. However, in the FLD dated 17 June 2019, petitioner was still assessed deficiency tax liabilities. While the aggregate amount of taxes being assessed increased, a comparison of the figures stated in the PAN dated 17 May 2019, and the foregoing figures would reveal that the respective amounts of basic taxes, 20% interest and compromise penalty remain unchanged. In other words, respondent BIR merely adjusted the 12% interest being imposed. In fact, the Details of Discrepancies attached to the said FLD merely reiterated or copied verbatim what are indicated in the Details of Discrepancies attached to the PAN. In addition, it is noteworthy that in the said FLD, respondent BIR did not address any of the refutations made by Petitioner in the Reply to PAN – an indication that respondent BIR did not consider the same when it issued the subject FLD. Hence, the assessments are void.

14. *Bio-Resource Power Generation Corp. v. CIR,* CTA Case No. 10372, 30 July 2024

The Commissioner of Internal Revenue (CIR)'s inaction and omission to give due consideration to the arguments and evidence submitted before him/her by the taxpayer are deplorable transgressions of the taxpayer's right to due process.

Petitioner Bio-Resource Power Generation Corp. received a Letter of Authority (LOA) with SN: eLA201600026888 on 05 June 2018 for the examination and investigation of petitioner's books of accounts and other accounting records. After investigation, a Preliminary Assessment Notice (PAN) with Details of Discrepancies was issued to and received by Petitioner on 05 March 2019, assessing Petitioner with deficiency income tax, value-added tax, and expanded withholding tax, and compromise penalties with a

total amount of Php30,442,299.39, inclusive of interest and surcharges. Petitioner filed its Reply to the PAN on 20 March 2019. A Formal Letter of Demand/Final Assessment Notice (FLD/FAN) with Details of Discrepancies and Assessment Notices was issued to and received by Petitioner on 29 April 2019, reiterating the assessments in the PAN, except for the adjusted interest. The total amount assessed then amounted to Php30,830,049.40, inclusive of interest and surcharges.

Petitioner filed a Protest against the FLD/FAN on 29 May 2019. An undated Final Decision on Disputed Assessment (FDDA) with Assessment Notices was issued to and received by Petitioner on 09 September 2020, denying petitioner's Protest and upholding and reiterating the assessments in the FLD/FAN, except for the adjusted interest. The total amount assessment under the FDDA amounted to Php33,468,709.51, inclusive of interest and surcharges.

Petitioner argues that the assessments are null and void as the FLD/FAN and FDDA failed to make a definite and final demand to pay the alleged deficiency taxes and that it lacks legal and factual basis, that the CIR's right to assess deficiency taxes for taxable year 2016 has already prescribed, and that its right to due process was violated as the CIR completely disregarded the pieces of evidence submitted in its Reply to the PAN.

Administrative due process demands that the party's defenses be considered by the administrative body in making its conclusions, and that the party be sufficiently informed of the reasons for its conclusions. This was not complied with by respondent in this case. Merely stating that petitioner failed to introduce sufficient evidence is not a reason. Respondent did not even bother to communicate to petitioner which documents it would require to come up with a fair investigation or assessment of petitioner's explanations in its Reply and Protest. All these suggest that Respondent is fixated on a pre-determined assessment and does not intend to consider the latter's explanation and evidence.

15. Golden Donuts Inc., v. CIR, CTA Case No. 10336, 30 July 2024

While it is axiomatic that all presumptions are in favor of the correctness of tax assessments, the assessment itself should not be based on presumptions no matter how logical the presumption might be.

On 10 October 2011, Petitioner Golden Donuts Inc. received a Letter of Authority (LOA) No. 116-2011-00000151 (eLA201100003039) dated 06 October 2011, for the BIR to examine Petitioner's books of accounts for the period 01 January 2010 to 31 December 2010. On 14 February 2013, Petitioner executed a Waiver of Defense of Prescription Under the Statute of Limitations (1st Waiver) under the 1997 National Internal Revenue Code (NIRC), as amended, valid until 31 December 2014, which was accepted by OIC-Assistant Commissioner Alfredo V. Misajon on 22 March 2013. On 19 November 2014, Petitioner received the Preliminary Assessment Notice (PAN) dated 19 November 2014 for the alleged deficiency income tax, VAT, final withholding tax (FT), withholding tax on compensation (WTC), expanded withholding tax (EWT), and documentary stamp tax (DST) in the aggregate amount of Php312,088,978.56, inclusive of interest and penalties. On 04 December 2014, Petitioner executed another Waiver of Defense of Prescription Under the Statute of Limitations (2nd Waiver) under the 1997 NIRC, as amended, which was accepted by OIC-Assistant Commissioner Nestor Valeroso on 16 December 2014.

Petitioner received the copy of the Formal Letter of Demand (FLD) dated 02 February 2015, and its Audit Result/Assessment Notices, on even date in the aggregate amount of Php272,615,710.31. On 04 March 2015, Petitioner filed its Protest on the said FLD. On 30 July 2020, Petitioner received a copy of the Final Decision on Disputed Assessment (FDDA) and corresponding Assessment Notices, demanding payment of total deficiency taxes in the amount of Php159,296,703.65 on or before 31 December 2020.

Petitioner filed the instant petition with the CTA alleging that the assessments were invalid for lack of factual and legal bases.

Relative to the BIR's assessment for deficiency income tax, the Court partly disagreed with the findings of the BIR, and ruled that:

a. The undeclared royalty income of Php5,189,487.91 cannot be assessed against Petitioner because this assessment item was only included in the FDDA and not found in the FLD and PAN. Thus, the assessment item amounting to Php7,657,572.35 was ordered by the Court to be cancelled for being issued contrary to the guidelines of RR No. 12-99, as amended by RR No. 18-2013.

b. Upon examination of the records of the case, it was found that Respondent did not send confirmation requests to TPI sources in relation to the undeclared sales amounting to Php14,930,615.69. Thus, no sworn statements were executed by the said third party sources. In order to stand the test of judicial scrutiny, the assessment must be based on actual facts. The presumption of the correctness of an assessment, being a mere presumption, cannot be made to rest on another presumption. In assessment proceedings, if there arises TPI discrepancies, the taxpayer is required to submit schedules and reconciliations to substantiate its claim. In addition, the taxpayer is required to execute a sworn statement to attest to the veracity and authenticity of the schedules and documents presented or submitted. On the other hand, the BIR is mandated to obtain sworn statements from TPI sources to attest to the veracity of the data provided. To obtain the sworn statements, the BIR must first send confirmation requests to the third-party sources or coordinate with the Revenue District Office (RDO) having jurisdiction over the third-party sources, to course through the confirmation requests to the latter.

Relative to the BIR's assessment for VAT, the Court ruled that Respondent's scrutiny of the supplier's invoices disclosed that there were purchases invoices/receipts which failed to comply with the invoicing requirements as prescribed under Section 113 of the 1997 NIRC, as amended, in relation to Section 4-113-1(8) of RR No.16-2005.

Respondent made a disallowance of input VAT corresponding to purchase invoices/ receipts allegedly on the ground that the invoicing requirements were not complied with. The Court agreed with the findings of the BIR that input VAT amounting to Php257,533.51 will be disallowed in violation of the invoicing requirements.

16. *Avaloq Philippines Operating Headquarters v. Commissioner of Internal Revenue*, CTA EB No. 2746 (CTA Case No. 10119), 31 July 2024

Petitioner Avaloq is a regional operating headquarter (ROHQ) of Avaloq Group AG (head Office), a company organized and existing under the laws of Switzerland. For the 1st and 2nd quarters of taxable year 2017, Petitioner generated gross receipts in the aggregate amount of Php53,056,083.00. The total gross receipts of Php53,056,083.00 were subjected to VAT at zero percent (0%) as allegedly, Petitioner's services were rendered in the Philippines to its non-resident foreign affiliates (foreign clients) and will be billed and paid for in acceptable foreign currency. With this, Petitioner accumulated input VAT for the 1st and 2nd quarters of taxable year 2017 in the aggregate amount of Php3,196,739.74. It thus filed a Letter Request for Tax Refund and Application for Tax Credits/Refund of its accumulated (excess) input tax.

Respondent avers that Petitioner failed to prove that it is a VAT-registered entity and was not able to submit proof that it is engaged in zero-rated or effectively zero-rated sales. Petitioner allegedly also failed to prove

that the services were performed in the Philippines, thus the services rendered to its foreign clients cannot qualify as subject to zero percent (0%) VAT under Section 108 (B)(2) of the NIRC.

Petitioner thus filed a Petition for Review, which was denied by the Court. The Court found that Petitioner was not able to prove by preponderance of evidence that its services were rendered in the Philippines. The General Framework Services Agreement (GFSA) entered into by Petitioner and its foreign clients, has no provision as to where the services are to be performed by Petitioner. There is no showing in the GFSA that the services rendered by petitioner were performed in the Philippines.

Despite Independent Certified Public Accountant (ICPA) Bambao's claim in her ICPA report and in her Judicial Affidavit that Petitioner's services were performed in the Philippines, the Court finds the same insufficient to establish that the services were performed here. ICPA Bambao's statement in her report and Judicial Affidavit that "sales amounting to Php53,056,083.00 were considered as sales subject to 0% VAT because these pertain to fees collected for services rendered in the Philippines" contradict her findings that the GFSA is silent as to the place where the services were rendered. Moreover, ICPA Bambao cannot be considered a competent witness to testify as to where Petitioner renders its services considering that she is not connected with Petitioner and is not privy as to where Petitioner renders its services.

17. *People of the Philippines v. Ziegfried Loo Tian*, EB Crim – 117, 31 July 2024

An Information was filed against Loo Tian, sole proprietor of Golden Taste Food Services & General Merchandising, which is engaged in the business of food catering and/or wholesale of general merchandise, for violation of Section 255 of the NIRC, or the willful attempt to evade or defeat the payment of VAT for the first (1st) quarter of the taxable year (TY) 2011. Thereafter, the Third Division of the Court issued the 1st assailed Resolution on 05 December 2022 that dismissed the Information for having been filed beyond the prescriptive period. Aggrieved, the plaintiff-appellant moved for reconsideration and the same was denied for lack of merit in the 2nd assailed Resolution of the Court in Division.

Petitioner argues that Prescription has not set in as the period of discovery and the institution of judicial proceedings for violation of Section 254 of the NIRC of 1997, as amended, not only triggers the commencement of the prescriptive period but, at the same time, triggers the interruption of the same prescriptive period.

Respondent, on the other hand, argues that the right of the government to prosecute him has prescribed under Section 281 of the NIRC of 1997, as amended, and that the case must be dismissed for violation of his right to speedy disposition of cases.

Section 281 of the NIRC of 1997, as amended, provides that all violations of any provision of the Code shall prescribe after five (5) years. Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment. The prescription shall be interrupted when proceedings are instituted against the guilty persons and shall begin to run again if the proceedings are dismissed for reasons not constituting jeopardy.

A perusal of the Information shows that the accused willfully, unlawfully and feloniously failed to supply correct and accurate information in his VAT return. Such being an omission and misrepresentation on the part of the accused, the day of the commission of the violation is unknown until the same is discovered. Thus, the commencement of the prescriptive period is from the discovery of the commission and the institution of judicial proceedings for its investigation and punishment.

In the instant case, the prescriptive period began to run when the violation was discovered and, subsequently, the case was indorsed by the Commissioner of Internal Revenue (CIR) for preliminary investigation to the DOJ on 05 July 2012.

It is well to note that in 2005, the Supreme Court approved A.M. No. 05-11-07-CTA, otherwise known as the Revised Rules of the CTA (RRCTA), which provided for the interruption of the prescriptive period under Section 2 of Rule 9. Such section states that criminal cases falling within the jurisdiction of the Court in Division is instituted by filing an Information before the same Court. Such institution of the criminal action before the Court shall interrupt the running of the period of prescription.

Evidently, plaintiff-appellant's reliance on Rule 110 of the Revised Rules on Criminal Procedure is misplaced considering that it only applies suppletorily to the RRCTA, and the latter specifically provides that criminal actions are instituted by the filing of an information before the CTA which filing shall interrupt the running of the prescriptive period.

As correctly found by the Court in Division, the right to prosecute the criminal action herein has prescribed. Counting from the discovery of the violation of the NIRC of 1997 and the institution of the judicial proceeding for preliminary investigation (i.e., CIR's referral of the case to the DOJ) on 05 July 2012, the Information should have been filed before this Court within five (5) years from 05 July 2012, or until 05 July 2017. Clearly, when the Information was filed before the Court on 26 October 2022, more than five (5) years have passed since the government's right to institute a criminal action prescribed.

18. *Alaska Milk Corporation v. Office of the City Treasurer and/or Davao City*, CTA AC No. 272, 02 August 2024

Alaska Milk Corp. (AMC) received from the respondent City Treasurer a Tax Order of Payment finding the former liable for local business taxes amounting to Php1,857,602.58, which the former paid under protest. The said protest, which included a claim for refund, was denied by the respondent who argued that the petitioner's sales and transactions were consummated in Davao City.

The petitioner then filed a Petition for Review before the RTC of Davao City. The RTC of Davao City denied the said Petition, leading the petitioner to file this present Petition for Review with the CTA.

The CTA found that it has no jurisdiction over the present controversy. It held that a party adversely affected by a decision, ruling or the inaction of a Regional Trial Court in the exercise of its original jurisdiction may appeal to the CTA by filing a Petition for Review within thirty (30) days from receipt of a copy of such decision or ruling (Sec. 3(a), Rule 8 of the 2005 Revised Rules of the CTA).

Citing the case of City Treasurer of Manila v. Phil. Beverage Partners Inc, substituted by Coca-Cola Bottlers Phil., the Court held that "... If refund is pursued, the taxpayer must (1) administratively question the validity or correctness of the assessment in the 'letter-claim for refund' within 60 days from receipt of the notice of assessment, and (2) thereafter bring suit in court within 30 days from either the decision or inaction by the local treasurer."

In other words, the requirements to successfully prosecute an action for refund in case the taxpayer had received an assessment are:

1. Pay the tax and administratively assail within 60 days the assessment before the local treasurer, whether in a letter-protest or in a claim for refund; and

2. Bring an action in court within 30 days from decision or inaction by the local treasurer.

Here, AMC alleges that it received the assailed Order on 08 September 2022. However, after careful review of the records, no evidence was presented by AMC to show that it indeed received the assailed Order on 08 September 2022. Thus, the CTA has no means to verify whether the Petition for Review was timely filed.

19. *Commissioner of Internal Revenue v. The Residences at Greenbelt Condominium Corporation*, CTA AC No. 272, 05 August 2024

The Commissioner of Internal Revenue (CIR) filed a petition for review which sought to reverse and set aside the Decision of the CTA in division, which canceled the tax assessment of the CIR against The Residences at Greenbelt in the total amount of Php13,184,036.64, consisting of income tax, VAT, EWT, and DST. The respondent, citing Commissioner of Internal Revenue v. Avon Products Manufacturing, argues that the failure of the taxing authority to inform the taxpayer of the reasons for rejecting its arguments in protesting the Preliminary Assessment Notice (PAN) is a denial of due process thus rendering the assessment null and void. In the present case, the BIR merely rehashed the FAN and adjusted the interest on the deficiency taxes, ultimately ignoring respondent's arguments and evidence on its protest to the PAN.

On the merits, the respondent argues that, as a condominium corporation, it is not subject to VAT as held in First E-Bank Tower Condominium Cop. v. Bureau of Internal Revenue. In the same vein, it is also not subject to income tax as it claims that it is not formed for business purposes but only for holding title to the land and common areas of the condominium project.

The Court ruled that the CIR's mechanical reiteration of his findings as set forth in the PAN when it subsequently issued the FAN dated 27 December 2017, without giving the reasons for rejecting respondent's defenses as raised in its protest and without even acknowledging such letter-protest is tantamount to violation of the taxpayer's due process rights.

While the CIR is not obliged to accept the taxpayer's explanations, he is nonetheless mandated to give his reasons for rejecting the same and must also give the particular facts upon which his conclusions are based, and those facts must appear on record.

The taxpayer's right to file a protest against the PAN emanates from a substantive law, specifically, Section 228 of the NIRC, which provides in part: "[t]he taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings."

While it may be true that RMO No. 26-2016 made the filing of protest to the PAN only optional on the part of the taxpayer and that the issuance of the FAN shall be made fifteen (15) days from the date of taxpayer's receipt of the PAN, these rules do not detract from, but actually reinforce the Avon doctrine mandating the CIR to duly consider the taxpayer's protest to the PAN and to explain its reasons for rejecting the arguments and defenses raised by the taxpayer in its protest. The purported optional nature of the filing of protest to the PAN is irrelevant to the present case. The fact remains that the taxpayer is given the right, albeit optional, to file a protest to the PAN. Once the taxpayer opted to file such a protest, the CIR has no choice but to

consider it and cannot just take it for granted without offending the taxpayer's due process rights and invalidating the assessment.

The Court En Banc also found that the petitioner erred in assessing the respondent deficiency income tax and value-added tax (VAT) for the latter's collection of refundable deposits. As held by the Supreme Court in "In the Matter of Declaratory Relief on the Validity of BIR Revenue Memorandum Circular No. 65-2012 "Clarifying the Taxability of Association Dues, Membership Fees and Other Assessment Charges Collected by Condominium Corporations," association dues, membership fees, and other assessments/ charges collected by condominium corporations are not subject to income tax, VAT, and withholding tax.

20. *Commissioner of Internal Revenue v. Sellery Phils. Enterprises, Inc.*, CTA EB No. 2756 (CTA Case No. 10047), 05 August 2024

Sometime in 2011, Sellery Phils. (Sellery) ceased its business operations, and its Board of Directors decided to permanently dissolve the company on 14 April 2015. On 20 May 2015, Sellery filed an Application for Registration Information Update with the BIR for (1) cessation of its BIR registration and (2) cancellation of its TIN.

Upon receiving the closure application, the Commissioner of Internal Revenue (CIR) issued three (3) LOAs authorizing Revenue Officer Jayson Baello and Group Supervisor Marita Panteriori to conduct a mandatory audit of Sellery's books of accounts and other accounting records to determine any tax liability for taxable year 2012-2014.

On 18 May 2016, a Memorandum of Assignment was issued in favor of Revenue Officer Cristina Yu and Group Supervisor Rodolfo M. Roldan, Jr. to continue the audit of Sellery's accounts. It is through this audit by RO Yu and GS Roldan that the CIR issued a Formal Letter of Demand with its corresponding Assessment Notices assessing Sellery of income tax (IT) deficiency in the amount of Php22,652,914.89, and VAT deficiency in the amount of P27,437,900.24.

Sellery filed a Petition with Urgent Motion to Suspend Tax Collection to question the validity of the deficiency IT and VAT being assessed against it. The CTA 3rd Division ruled that the subject assessments are null and void due to the lack of a Letter of Authority.

The Court ruled that based on the evidence presented and the testimonies of the witness, the BIR conducted the audit examination without the requisite LOA. Hence, the assessment is invalid.

Citing the case of Commissioner of Internal Revenue v. Wellington Investment & Manufacturing Corp., the Court reiterated that the practice of reassigning or transferring revenue officers originally named in the Letter of Authority (LOA) and substituting or replacing them with new revenue officers to continue the audit or investigation without a separate or amended LOA:

1. Violates the taxpayer's right to due process in tax audit or investigation;

2. Usurps the statutory power of the Commissioner of Internal Revenue or his duly authorized representative to grant the power to examine the books of account of a taxpayer; and

3. Does not comply with existing BIR rules and regulations on the requirement of an LOA in the grant of authority to examine the taxpayer's books of accounts.

Here, the LOA was originally issued to RO Baello and GS Panteriori. Later on, a memorandum of assignment was issued in favor of RO Yu and GS Roldan to continue the audit of Sellery's books. Through this memorandum, RO Yu was able to audit and examine Sellery's books of accounts and recommended the issuance of a Preliminary Assessment Notice and Formal Letter of Demand against Sellery. However, it must be noted that RO Yu examined Sellery's books of accounts without the requisite authority emanating from a prior issued LOA.

An LOA is a safeguard against abuses that may be perpetrated by revenue officers against taxpayers. An LOA guarantees a taxpayer that only persons named therein are allowed to examine his or her books of accounts and other accounting records. Hence, he or she has the right to deny other revenue officers not so named from auditing him or her for potential deficiency tax assessments

21. ***Commissioner of Internal Revenue v. Ong,*** **CTA EB Case No. 2785 (CTA Case No. 10100), 05 August 2024.**

Petitioner Erlinda Ong (Ong) challenged a tax assessment issued by the Bureau of Internal Revenue (BIR). The Assessment process began with the issuance of an electronic Letter of Authority (eLA) on 28 February 2011 authorizing a Revenue Officer (RO) to audit the petitioner for the 2009 taxable year. In the course of the audit, she received a Preliminary Assessment Notice (PAN), a Final Assessment Notice (FAN), and a Formal Letter of Demand (FLD), culminating in a Final Decision on Disputed Assessment (FDDA) which denied her protest.

Ong argues that the tax assessment had prescribed and was invalid because a Waiver of the Defense of Prescription (WDP) was executed before the issuance of the eLA. Additionally, she contended that the reassignment of a new RO to continue the audit required a new or amended eLA, which was not issued, thereby rendering the assessment void.

The Court found that the reassignment of the RO without a new eLA violated the taxpayer's right to due process. Issuance of the eLA is a jurisdictional requirement for a valid audit or assessment. The reassignment of a new RO without a corresponding new or amended eLA resulted in the nullity of the examination and assessment. Assessment was deemed invalid

22. ***Country Bank v. Bureau of Internal Revenue,*** **CTA EB Case No. 2760 (CTA Case No. 10864), 05 August 2024.**

On 09 February 2021, the BIR issued a Preliminary Assessment Notice (PAN) indicating Country Bank's liability for various deficiency taxes and penalties amounting to Php5,226,763.31 for the 2018 taxable year. On 18 March 2021, a formal Letter of Demand (FLD) was issued for the same tax deficiencies in the amount of Php5,309,330.67. Allegedly, petitioner Country Bank received the FLD on 14 April 2021, while the BIR asserts that it was received on 29 March 2021. The petitioner thereafter filed its protest to the FLD on 14 May 2021. The BIR, however, issued a letter denying the petitioner's protest for being filed out of time.

As a result of the foregoing, Warrants of Garnishment were issued on 28 July 2021 against Country Bank's bank accounts. The petitioner was informed of such garnishment in August 2021 by BDO and DBP.

On 23 August 2021, Country Bank wrote a letter to RD Florante Aninag in response to the letter denying its protest to the FLD. The petitioner wrote another letter on 31 August 2021 to Atty. Emelita Abo, Revenue District Officer of RDO No. 63, requesting the lifting of the warrants of garnishment. On 21 April 2022,

Country Bank received a letter dated 04 April 2022 denying its request for lifting of the warrants. Thereafter, the petitioner filed a Petition for Review with the Court on 23 May 2022.

The Court ruled that Country Bank's Petition was filed late, as it was not submitted within the required period following the issuance of the Warrants of Garnishment. These warrants, which were used to seize the petitioner's bank accounts to satisfy the tax assessment, were deemed to be the final and appealable decision of the BIR. The Court explained that the issuance of the Warrants of Garnishment marked the conclusion of the assessment phase and the beginning of the collection process, effectively making it the BIR's final decision in the case. Consequently, the petitioner's failure to file a timely petition for review led to the dismissal of the case.

23. *Sankyu-ATS Consortium-B v. Commissioner Internal Revenue,* CTA Case No. 10495, 06 August 2024.

Petitioner Sankyu-ATS filed for a claim for refund of its excess and/or unutilized creditable input VAT with BIR Revenue District Office (RDO) No. 98. However, it subsequently received a letter from the Revenue District Officer denying its application due to lack of documentary requirements, hence, the present Petition for Review with the CTA.

Respondent argues that the CTA has no jurisdiction on the ground that he did not accept petitioner's application for refund due to petitioner's failure to submit complete documents in support of its claim, which is tantamount to non-submission. Hence, there is no decision appealable before this Court. On the other hand, petitioner insists that respondent's non-acceptance of its administrative claim for VAT refund is deemed a full denial within the meaning of Section 112(C) of the NIRC for all intents and purposes.

The CTA ruled in favor of the respondent. It ruled that under the Tax Code, the power to decide applications or claims for refund of creditable input taxes for regional cases was delegated to the Regional Director, within the 90-day time frame set forth by Section 112(C) of the NIRC of 1997, as amended. It must be noted that the participation of a Revenue District Officer after the filing of the claim is limited only to "verification/ processing". Thus, for applications or claims for refund of creditable input taxes filed with the concerned RDO, the appealable decision to the CTA is not one issued by the corresponding RDO, but by the Regional Director. In this case, the subject of the appeal is the letter issued by the RDO that the application was not accepted due to lack of documentary requirements. However, as ruled by the CTA, it is only the decision of the Regional Director on the refund claim of input VAT which is appealable to the Court, not the one rendered by the RDO. Hence, the CTA has no jurisdiction.

24. *Commissioner of Internal Revenue v. Asurion Hong Kong Limited-ROHQ,* CTA EB Case No. 2752 (CTA Case No. 10121), 06 August 2024.

Respondent Asurion Hong Kong Limited, a Regional Operating Headquarters in the Philippines, filed its administrative claim with the BIR for refund of unutilized input VAT which was denied by BIR Revenue Region No. 8 - Makati City. On appeal, the CTA in Division partially granted Respondent's claim, hence, the present Petition by the Commissioner of Internal Revenue.

The petitioner faulted the CTA in Division in partially granting respondent's claim for refund claiming that it failed to properly substantiate its purchases. However, the CTA En Banc ruled that in the absence of any factual allegation and empirical proof that the CTA In Division has committed grave abuse of discretion, the CTA En Banc cannot disturb such factual findings.

The petitioner further argues that the CTA should have taken into consideration his denial of respondent's administrative claim for refund due to failure of the latter to submit the complete documentary requirements for such claim. However, the CTA ruled that it is not bound by law to take cognizance of his findings in respondent's administrative claim for refund because the CTA is mandated to conduct a trial de novo or a new trial on the entire case.

25. *Xytrix Systems Corporation v. Commissioner of Internal Revenue,* CTA Case No. 10629, 06 August 2024.

The petitioner, Xytrix Systems, seeks to have the CTA declare void the Preliminary Assessment Notice (PAN) and Formal Letter of Demand (FLD) issued by the respondent CIR for its alleged deficiency taxes. The crux of the controversy lies in whether there was proper service of the PAN and subsequent BIR notices to the petitioner. The petitioner alleges that the subject PAN was not served upon the petitioner's board of directors. Instead, it was allegedly served upon a certain Ms. Cecile Cainag.

The CTA determined from the facts of the case that there was a failure on the part of the petitioner to accept the PAN. It highlighted that, in such a case, Revenue Regulations (RR) No. 18-2013 mandates that the concerned revenue officers bring a barangay official and two (2) disinterested witnesses to the known address of the taxpayer so that they may personally observe and attest to such refusal. Thus, following Section 3.1.6 (ii) of RR No. 18-2013, the BIR violated its own rules when its revenue officers, who served the subject PAN, not only failed to ascertain or specify the authority of Ms. Cecile Cainag to receive the notice on behalf of the petitioner, but also failed to bring with them a barangay official and two (2) disinterested witnesses to personally observe and attest to the refusal. Instead, they caused the service of the PAN to the said barangay official. Furthermore, there is no evidence in the records of the instant case to prove that Ms. Cecile Cainag was authorized to receive any documents on behalf of the petitioner. Hence, there is no basis for claiming that there was a valid substituted service of the PAN.

To reiterate, tax assessments issued in violation of a taxpayer's right to due process are null and void. Such being the case, the subject tax assessments cannot be enforced against the petitioner, and the BIR has no right to collect the same.

26. *PPD Pharmaceutical Development Philippines Corp. v. Commissioner of Internal Revenue,* CTA Case No. 10348, 06 August 2024.

Petitioner PPD Pharmaceutical filed an Application for Tax Credit/Refund for alleged excess and/or unutilized creditable input VAT amounting to Php5,584,123.50. Petitioner claims that the sale of services for its 1st Quarter of CY 2018 are VAT zero-rated. Respondent Commissioner of Internal Revenue asserts that the claim for refund should be denied for Petitioner’s failure to comply with the mandatory invoicing requirements pursuant to Section 113, in relation to Section 110 and 114(C) of the Tax Code.

The Court ruled that the petitioner is not entitled to tax credit/refund because it failed to comply with mandatory VAT invoicing requirements.

It is equally important to determine that the VAT zero-rated sales must be supported by VAT zero-rated official receipts (ORs) complete with the invoicing requirements in Section 113 (A) and (B) of the Tax Code. The foregoing provisions are also implemented by Section 4.113-1 A and B of Revenue Regulations (RR) No. 16-2005, which requires the use of VAT invoice/official receipts wherein the term “zero-rated sale” is printed or written prominently on the invoice/receipt. in relation to Section 238 of the Tax Code, the VAT invoices/ORs must be duly registered with the BIR as prescribed under Section 237, and that the

registered invoices/receipts must show the date of transaction, quantity, unit cost and description of merchandise or nature of service. The burden is on the taxpayer to show that he/she has strictly complied with the conditions for the grant of the tax credit/refund. Failure to do so shall be fatal to the taxpayer's claim for credit/refund.

The declared zero-rated sales of the petitioner were not fully substantiated by VAT ORs. The ORs issued for the payments for billing statements did not indicate the service(s) in the OR but only the corresponding number of the billing statement numbers. More significantly, the petitioner did not offer evidence in these billing statements, which could have been cross-referenced with the ORs and provided much needed data that will confirm the nature and details of the zero-rated sales. Thus, the petitioner failed to prove that the sales are indeed VAT zero-rated to entitle them to tax credit/refund.

27. *Reyes v. Commissioner of Customs, Bureau of Customs,* CTA Case No. 10340, 07 August 2024.

Petitioner Reyes, the owner of two (2) aluminum closed vans (subject vans), is seeking to annul and reverse Respondent CIR's decision ordering the forfeiture of the subject vans in favor of the government. The shipment of Terratech Trading, which is loaded in the subject vans, and the subject vans were seized by the Bureau of Customs (BOC) for violations of the Customs Modernization and Tariff Act ("CMTA"). Petitioner argued that the closed fans are not forfeitable, since he is a common carrier that has not been chartered or leased and has no knowledge or participation in the unlawful act.

The Court ruled that the closed vans should not have been forfeited because the subject vans are exempt from forfeiture. Although the Petitioner is not a common carrier, he has no knowledge or participation in the unlawful act.

Section 1113(a) of the CMTA provides that to be exempt from forfeiture, the vehicle must be a common carrier that is not chartered or leased. Based on petitioner's answers, it can hardly be said that he holds himself out to the public as a common carrier, ready to act indiscriminately for all who may desire his services to transport goods from one place to another either gratuitously or for hire.

However, Section 1114 of CMTA also provides that forfeiture of vehicles is not allowed if it is established that the owner thereof has no knowledge of or participation in the conveyance or transportation of smuggled goods. A further seizure of the vehicle, vessel, or aircraft of the owner who is an innocent party to the crime would be inequitable and unjust.

The petitioner was able to prove that he did not know of the unlawful act. Petitioner's testimony and the Acknowledgment Receipt submitted reveals that he was not aware of the business dealings of Chris Pablo, the person who contracted his vans, beyond the renting. A perusal of the evidence presented would lead to no other logical inference as regards the relationship between petitioner and Terratech Trading other than that a certain Chris Pablo hired petitioner's vans to carry the subject shipment from the UPS Delbros Warehouse in the Port of Clark to Malate, Manila. Since her is not aware of that the goods were smuggled, the seizure of the subject vans was improper.

28. *Cohaco Merchandising & Development Corp. v. Secretary of Trade and Industry,* CTA Case No. 10185, 07 August 2024.

The Petitioners filed a Petition for Review to reverse and nullify the decision of the Respondent Secretary of Department of Trade and Industry (DTI) and enjoin the Secretary of DTI and Bureau of Customs (BOC) from imposing final definitive safeguard duties against the Petitioners' cement importations, pursuant to

Republic Act (RA) No. 8800 or the Safeguard Measures Act. The Petitioners argue that the imposition of the safeguard duties is misplaced because the importations pose no serious injury or threat to the domestic cement industry. The Respondents countered that the Respondent DTI Secretary is empowered in the Safeguards Measures Act to impose a general safeguard measure and that the DTI's determination of its imposition deserves great respect and finality, as anchored in the Tariff Commission's (TC) investigation and findings of threat of serious injury.

The Court ruled that the DTI's conduct of the proceeding leading up to the imposition of the safeguard measures is properly done in accordance with the Safeguard Measures Act. The TC's Final Report was established through an extensive evaluation of evidence and discourse which the Court has exhaustively reviewed.

The factual findings of the TC on the existence of conditions warranting the imposition of general safeguard measures are binding on the DTI Secretary since the latter is not authorized to alter, amend or modify in any way the determination made by the TC. The DTI Secretary may impose definitive safeguard measure if there is a positive final determination made by the TC. Clearly then, the DTI Secretary is bound by the determination made by the Tariff Commission. Further, the DTI Secretary generally cannot exercise review authority over actions of the TC, including its positive final determination. Thus, the TC's conclusion are accorded great respect owing to its expertise and specialization, and consequently, the imposition of the safeguard duties is justified.

29. *Alphaland Southgate Tower, Inc. v. Commissioner of Internal Revenue,* CTA Case No. 10669, 13 August 2024

The case involves an assessment of deficiency income tax, improperly accumulated earnings tax, value-added tax, expanded withholding tax, and documentary stamp tax in the total amount of Php3,213,011,197.35 against Petitioner Alphaland Southgate Tower.

The initial revenue officer assigned was issued a Letter of Authority to conduct an audit. However, the initial revenue officer eventually retired, and a new revenue officer took her place under a Memorandum of Assignment. After the issuance of the Preliminary Assessment Notice, filing of Reply, and service of Formal Letter of Demand, the petitioner filed a Protest/Request for Reconsideration on 20 November 2020. The new revenue officer served the Final Decision on Disputed Assessment (FDDA) to the petitioner through registered mail since there was no person in the registered address on 04 May 2021. On 13 September 2021, a Warrant of Distraint and/or Levy was issued against the petitioner for failure and refusal to pay which the petitioner filed a Request for Lifting of Warrant of Distraint and/or Levy. Since the petitioner has yet to officially receive the FDDA, the new revenue officer again served the FDDA to the petitioner on 07 October 2021. On 08 November 2021, the petitioner filed a Petition for Review with the Court.

The Court ruled that the petitioner timely filed its petition on 08 November 2021 (06 November 2021 falling on a Saturday) which was within the 30-day period from receipt of the FDDA on 07 October 2021. The CTA reiterated the case of Mannasoft Technology Corp. v. Commissioner of Internal Revenue (G.R. No. 244202) which provides for the two (2) periods when a Petition for Review may be filed with the Court protesting the FDDA, namely: (a) within 30 days after expiration of the 180-day period fixed by law for the Commissioner of Internal Revenue (CIR) to act on a disputed assessment; or (b) await final decision of the CIR and file within 30 days after receipt of a copy of the decision, even if the 180-day period has expired.

The Court also held that the new revenue officer did not have any authority to conduct an audit against the petitioner as the Letter of Authority did not contain the new revenue officer's name. Further, the Memorandum of Assignment did not cure this defect as the Supreme Court has already put an end to the practice of reassigning revenue officers through a memorandum of assignment without the issuance of a new Letter of Authority in Republic v. Robiegie (G.R. No. 260261).

30. ***Montalban Methane Power Corp. v. Commissioner of Internal Revenue,* CTA Case No. 10334, 13 August 2024.**

The petitioner received a Preliminary Assessment Notice (PAN) from the BIR demanding payment for alleged deficiency income tax, withholding tax on compensation (WTC), expaneded withholding tax (EWT), fringe benefits tax (FBT), final income tax, final VAT, and DST, inclusive of interests and compromise penalty, for taxable year 2015, in the total amount of Php50,822,341.54. The petitioner contested the PAN. The BIR then issued a Final Letter of Demand (FLD) and Final Assessment Notice (FAN) for the same amount, reiterating its findings in the PAN. The petitioner protested and filed its request for reinvestigation. The BIR, however, subsequently issued a Final Decision on Disputed Assessment (FDDA). The petitioner thereafter filed a Petition for Review before the CTA questioning the tax assessment by the BIR.

In resolving the case in favor of the petitioner, the CTA highly stressed and ruled that the BIR must observe the due process requirement in the conduct of their tax assessment. As part of the due process requirement in the issuance of tax assessments, the BIR must give reasons for rejecting the petitioner's arguments and must give the particular facts upon which the conclusions for assessing the petitioner are based, and those facts must appear on record.

In this case, the BIR, in issuing the FLD/FAN, merely reiterated its findings in the PAN despite submission by the petitioner of its refutations against BIR's findings of deficiency taxes. The BIR had obviously not observed the due process requirement in the issuance of the subject FLD/FAN.

The Court thus ruled that petitioner's right to due process, as recognized under Section 228 of the NIRC of 1997, as amended, vis-à-vis Section 3.1.4 of RR No. 12-99, as amended, was violated by respondent. Due to such violation, the said deficiency tax assessments are rendered void.

31. ***Petron Corp. v. Commissioner of Internal Revenue, CTA Case Nos. 10252 & 10297*, 14 August 2024.**

Petitioner Petron filed two judicial claims for refund with the BIR for excise taxes alleged to be erroneously collected by the BIR on its importation of alkylates, amounting to Php34,536,789.00 (February 2018 importation) and Php25,046,866.00 (May 2018 importation).

The Court mainly ruled on the issue of whether petitioner's importations of alkylate are subject to excise tax. In ruling in favor of the petitioner, the Court reiterated the case of Petron Corporation v. Commissioner of Internal Revenue (G.R. No. 255961) where the Supreme Court ruled that:

(a) As alkylate is not categorically covered by Section 148 (e) of the NIRC, and considering that ambiguities in tax laws should be construed against the government and in favor of taxpayers, the provision at issue should be interpreted as not imposing excise taxes on alkylate;

(b) As the intended use and nature of alkylate differ greatly from those of naphtha and regular gasoline, the former cannot be placed under the same category as the latter two substances, i.e., as a "similar product" to naphtha and regular gasoline; and

(c) Alkylate cannot be considered a direct product of distillation, especially as only one of the two raw materials typically used in the production of alkylate is itself a product of distillation.

In sum, as alkylates cannot be classified as a product of distillation that is similar to naphtha and/or gasoline, the petitioner's importations is not subject to excise tax under Section 148 (e) of the NIRC. Any imposition, collection, or payment of excise taxes on such importation based on said provision is thus erroneous and illegal.

32. *Tagala v. Commissioner of Internal Revenue*, CTA Case No. 10720, 14 August 2024

Petitioner Redentor Agpuldo Tagala (Tagala) is the sole proprietor of 7th Concept Trading/7C Construction. On 03 December 2018, the Bureau of Internal Revenue (BIR), through Regional Director (RD) Clavelina S. Nacar of Revenue Region No. 1 – Calasiao, Pangasinan, issued the assailed LOA No. 001-2018-00000287 for the examination of the petitioner's books of account and other accounting records for the period 01 January 2017 to 31 December 2017.

After investigation, the BIR issued the Preliminary Assessment Notice (PAN) dated 10 September 2020, with Details of Discrepancies, finding Tagala liable for deficiency income tax and value-added tax (VAT), with surcharge, interests, and compromise penalties, in the aggregate amount of Php11,970,387.16. The PAN was served upon him at his residence in Cavite. The BIR then issued the Formal Letter of Demand (FLD) with Details of Discrepancies, together with the Formal Assessment Notices, both dated 15 October 2020, assessing Tagala for deficiency taxes amounting to Php12,169,518.89.

The FLD and Final Assessment Notice (FAN) were served upon Tagala on 30 October 2020. On 27 November 2020, Tagala filed a Protest Letter (Request for Reconsideration) dated 25 November 2020. Subsequently, the BIR issued another LOA, dated 18 February 2021, authorizing RO Abner Dela Cruz and GS Daniella Gabaon to examine Tagala's books of accounts and accounting records for all internal revenue taxes for the taxable year 2017. It states that it replaces the LOA dated 03 December 2018 due to the transfer of the assigned RO to another district office and the reassignment of the case.

Petitioner Tagala argues that the tax assessment is null and void for violating his right to due process. First, the LOA was unlawfully served upon an unauthorized person who is completely unknown to petitioner. This makes the assessment process flawed from the very beginning. Second, the LOA was not revalidated after 120 days.

The Court found that the LOA was not validly served upon the petitioner, thus rendering the tax assessment void.

The Court reiterated that the LOA is the authority granted to a revenue officer assigned to perform tax assessment functions. It is premised on the fact that the examination of a taxpayer who has already filed the tax return is a power that statutorily belongs only to the Commissioner of Internal Revenue or his/her duly authorized representatives. To fulfill the requirement of due process, proper service of the LOA itself is essential. Service of a copy of any other BIR document does not suffice. In Medicard Philippines, Inc. v. Commissioner of Internal Revenue, the Supreme Court ruled that mere issuance of a Letter Notice to the taxpayer violates the latter's due process if no corresponding LOA was served. It is also well settled that

when a new revenue officer is assigned to conduct the examination or assessment, service of a new LOA must be made to prove the existence of the authority of such revenue officer.

Evidence in the instant case strongly supports the petitioner's claim that the BIR failed to properly serve the assailed LOA dated 03 December 2018. During the cross-examination of RO Ramos, he admitted that: 1) the petitioner was not present at the time he served the LOA; 2) he merely relied on the representation of the petitioner's supposed relative as to Ms. Martin's authority to receive the LOA; and 3.) Ms. Martin is not an employee of petitioner.

33. *First Telecom Philippines, Inc. v. Commissioner of Internal Revenue,* CTA Case No. 10486, 14 August 2024.

On 04 February 2015, respondent BIR issued a Letter of Authority (LOA) authorizing (1) Revenue Officer (RO) Jan Andre Abellera, (2) RO Johnro Galicia, and (3) Group Supervisor (GS) Gilquin Tolentino, to examine the petitioner's, First Telecom Philippines, Inc.'s (FTPI), books of accounts and other accounting records covering the taxable year 2013.

On 06 February 2015, the BIR, through the Chief of the Regular Large Taxpayers Audit Division (RLTAD)-I, Cesar D. Escalada, issued a letter to FTPI, as follows:

> "The bearer hereof, Revenue Officers, Ruby Ann B. Oradia and Aurelio Agustin T. Zamora are authorized to assist in the examination of your books of accounts and other accounting records for All Internal Revenue tax liabilities for the taxable year 2013, pursuant to Letter of Authority No. 0116-2015-00000010 dated February 4, 2015. They are provided with the necessary identification cards which shall be presented to you upon request.
>
> It is requested that all facilities be extended to the Revenue Officers as supervised by Group Supervisor Gilquin B. Tolentino."

On 07 December 2017, the respondent issued a Preliminary Assessment Notice (PAN) against FTPI. On 22 December 2017, FTPI filed its Reply to the PAN with attached Details of Discrepancies dated 21 December 2017. On 28 December 2017, FTPI received the Formal Letter of Demand (FLD) and Audit Result/Assessment Notice (AR/AN). On 26 January 2018, FTPI filed its Protest to the FLD dated 25 January 2018. On 16 February 2021, FTPI received the Final Decision on Disputed Assessment (FDDA), and thus subsequently filed the instant Petition.

The Court ruled that the assessment made by the BIR against FTPI was void. The Court found that RO Ruby Ann B. Oradia and RO Aurelio Agustin T. Zamora were authorized to conduct the examination of FTPI's books and accounting records only through a letter issued by the Chief of RLTAD-I Cesar D. Escalada on 06 February 2015. Considering that the said ROs' authority did not emanate from a new or amended LOA, the subject assessments are void. The Court reiterated the ruling of the Supreme Court in Commissioner of Internal Revenue v. Sony Philippines, Inc. (G.R. No. 178697, 17 November 2010) that "based on Section 13 of the Tax Code, a Letter of Authority or LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. The very provision of the Tax Code that the Commissioner of Internal Revenue relies on is unequivocal with regard to its power to grant authority to examine and assess a taxpayer. Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment.

Equally important is that the revenue officer so authorized must not go beyond the authority given. In the absence of such an authority, the assessment or examination is a nullity."

34. *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue,* CTA Case No. 7731, 14 August 2024.

Petitioner Pilipinas Shell filed a Petition for Review praying that a judgment be rendered declaring the petitioner entitled to a refund of or issuance of a tax credit certificate for the amount of Php91,655,658.98 representing excise taxes paid on Jet A-1 fuel sold to tax-exempt international air carriers for the period from February to April 2006 and ordering respondent to grant petitioner a refund or tax credit in the said amount.

The Court ruled that the Petition for Review is partly meritorious and ordered the refund or issuance of a tax credit certificate in favor of the petitioner in the reduced amount of Php80,068,801.04 representing excise taxes paid by petitioner on Jet A-1 fuel sold to tax-exempt international air carriers from February to April 2006.

The Court concluded that upon the petitioner's sale of its imported petroleum products to various international carriers from 27 February to 09 April 2006, the tax exemption under Section 135 (a) of the Tax Code came into effect. Consequently, the excise taxes it previously paid on the said petroleum products became erroneously or illegally collected taxes that are the proper subject of a claim for refund under Sections 204 and 229.

The Court noted, however, that it cannot declare that the petitioner is entitled to the entirety of its refund claim. The Court highlighted that the 24,974 liters of Jet A-1 fuel sold by the petitioner to international carriers subject of its present claim for tax refund came from two (2) sources: first, from direct importation, amounting to 28,578,673 liters; and second, from the local purchase from Chevron amounting to 3,192,012 liters. Based on this, the petitioner may claim refund for the excise taxes on the Jet A-1 fuel that it imported itself, considering that it was the statutory taxpayer in this instance. However, the Court noted that the same is not true for fuel purchased from Chevron. The Court expounded that the standing principle is that the "passing on" of the tax burden is largely a contractual affair between the parties and such affair does not determine the tax incidence imposed by law unless the contrary is provided. Here, when the petitioner purchased Jet A-1 fuel from Chevron and paid the corresponding excise tax as part of the purchase price, it did not operate to transform the petitioner into the statutory taxpayer of the corresponding excise taxes. In reality, what the petitioner paid was merely the tax burden, and hence, it cannot benefit from the tax exemption under Section 135 which operates to alleviate the tax incidence. In the case of the 3,192,012 liters purchased from Chevron, the petitioner was merely a purchaser of said fuel. Thus, even if it was subsequently sold to international carriers, the petitioner could not invoke the exemption under Section 135 (a) because the tax incidence remained with Chevron. At the time that Chevron sold fuel to the petitioner, who was not an international carrier or any of the enumerated persons in Section 135, the excise taxes already became due and demandable and petitioner's eventual sale thereof to an international carrier cannot negate the accrual of the excise tax liability.

Thus, the Court ruled that the excise taxes of Php9,197,284.24 paid by the petitioner in relation to the 2,506,072 liters of Jet A-1 fuel it locally purchased from Chevron cannot be refunded.

As to the excise taxes paid by the petitioner in the amount of Php82,458,374.74 on the 22,468,222 liters of Jet A-1 fuel which were classified as "Sourced from Importations by PSPC," the Court noted as an exception the amount of Php513,807.34 which arose from 140,002 liters of locally sourced issuances of Jet

A-1 fuel which are not included in the fuel importations for which exercise taxes were paid and are subject of the present refund. Likewise, the Court noted as exceptions the excise tax payments in the sum of Php73,539.46 on sales of 20,038 liters of Jet A-1 fuel, for not being supported by an Aviation Service Return (ASR) and/or a Sales Invoice.

In order for the sales of 22,308,182 liters of imported Jet A-1 fuel to international air carriers to be exempted from excise tax under Section 135 (a) of the National Internal Revenue Code (NIRC) of 1997, as amended, petitioner must present the following:

1. Proof that the imported Jet A-1 fuel sold to international air carriers were stored in a bonded storage tank, and had been disposed of in accordance with the rules and regulations;
2. Proof of foreign registry of the international air carriers, or in case of Philippine-registered air carriers, the latter's proof of authority to operate international flights; and
3. Proof that the imported Jet A-1 fuel were used or consumed outside the Philippines.

The Court noted that petitioner was able to prove the following requisites: first, petitioner proved that the imported Jet A-1 fuel sold to international air carriers were stored in a bonded storage tank, and had been disposed of in accordance with the rules and regulations; second, petitioner proved that the imported Jet A-1 fuel were sold to international air carriers of foreign or Philippine registry duly authorized to operate international flights; and lastly, petitioner proved that the imported Jet A-1 fuel were used or consumed outside the Philippines except for 409,070 liters of imported Jet A-1 fuel.

In sum, the petitioner sufficiently proved that excise taxes in the reduced amount of Php80,068,801.04 on 21,817,112 liters of Jet A-1 fuel directly imported by petitioner and subsequently sold to tax-exempt international air carrier were erroneously paid, and thus, refundable, pursuant to Sections 204 and 229 of the Tax Code.

35. *Petron Corporation v. Commissioner of Internal Revenue,* CTA Case Nos. 10232, 10266 &10267, 15 August 2024.

Petitioner Petron Corporation locally-produced unleaded gasoline fuel and diesel fuel oil, and paid taxes thereon, which were subsequently sold and delivered to Micro Dragon Petroleum, Inc. (MDPI), an alleged tax-exempt entity, during the periods from 01 January 2018 to 30 September 2018. The petitioner filed a Petition for Review with the Court, seeking a tax refund/credit of the taxes paid, corresponding to the fuel sold to MDPI, in the total amount of Php773,900,222.00.

The Court ruled that pursuant to Section 135(c) of the Tax Code, as amended, petroleum products sold to entities that are by law exempt from direct and indirect taxes are exempt from excise tax. The phrase "which are by law exempt from direct and indirect taxes" describes the entities to whom the petroleum products must be sold to render the exemption operative. Section 135(c) of the Tax Code, as amended, should thus be construed as an exemption in favor of the petroleum products on which the excise tax was levied. The exemption cannot be granted to the buyers, i.e., the entities that are by law exempt from direct and indirect taxes, because they are not under any legal duty to pay the excise tax.

Upon the petitioner's sale of petroleum products to entities that are by law exempt from direct and indirect taxes, the status of the sold petroleum products as tax-exempt is confirmed. Consequently, the excise taxes previously paid on these petroleum products become erroneously or illegally collected taxes. These taxes are then the proper subject of a claim for refund or credit under Sections 204 and 229 of the Tax Code.

To be entitled to a refund or the issuance of a TCC, the following must be demonstrated: (1) the entity to which the taxpayer-claimant sold the petroleum products is an entity exempt by law from both direct and indirect taxes; and, (2) the taxpayer-claimant, as the statutory taxpayer, paid the excise taxes claimed on the petroleum products sold to the exempt entity.

The petitioner was able to prove the abovementioned requirements. However, the tax refund granted was only for Php727,332,597.00, as the disallowed portion of the claim corresponded to removals of locally produced diesel fuel oil which cannot be found in or traced within the detailed transaction listings in the corresponding SAP-generated official registry books, which reflect the breakdown of the amounts paid per excise tax return.

36. *Air Drilling Associates PTE LTD. V. Commissioner of Internal Revenue,* C.T.A. Case No. 10497, 15 August 2024.

Petitioner Air Drilling Associates Pte. Ltd. is a foreign company organized and existing under the laws of Republic of Singapore. The petitioner filed a Petition for Review with the Court, seeking a refund or issue a tax credit certificate in the amount of Php4,175,976.96 attributable to its zero-rated sales for the period 01 July 2018 to 30 September 2018.

At the administrative level, the petitioner filed with the BIR its Quarterly VAT return for the third quarter (July 1 to September 30) of taxable year 2018 on 25 October 2018.

On 30 September 2020, the petitioner filed with the BIR the letter dated 29 September 2020, applying for a VAT refund representing the excess or unutilized input tax credits attributable to its VAT zero-rated sales for the third quarter of taxable year 2018. It, however, received on 09 March 2021 the Letter dated 16 December 2020 issued by BIR – Revenue Region No. 8A, denying with finality its application for VAT refund for the said period, for lack of legal and factual basis.

The sole issue to be resolved by the Court, as stipulated by the parties, is whether the petitioner is entitled to its claim for refund of its alleged unutilized input VAT allegedly acquired during the third quarter of taxable year 2018.

The Commissioner of Internal Revenue argued that the petitioner failed to submit the Department of Energy (DOE) indorsement of Energy Development Corporation (EDC) for the time period the petitioner is entitled for VAT zero-rating since the document offered by the petitioner is issued on 23 June 2020, and that the petitioner's claim for VAT refund in the alleged amount of Php4,175,976.96 should be denied.

Jurisprudence has laid down the following requisites for claiming refund or tax credit of unutilized or excess input VAT attributable to zero-rated or effectively zero-rated sales, viz.:

1. The refund claim is filed with the BIR within 2 years after the close of the taxable quarter when the sales were made;
2. In case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 90 days, the judicial claim has been filed with the Court within 30 days from receipt of the decision or after the expiration of the 90-day period;
3. The taxpayer is a VAT-registered person;
4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;
5. The input taxes are not transitional input taxes;
6. The input taxes are due or paid;

7. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;
8. The input taxes have not been applied against output taxes during and in the succeeding quarters;
9. Applicants must satisfy the substantiation and invoicing requirements under the NIRC of 1997, as amended, and other implementing rules and regulations.

The Court ruled that the petitioner was able to meet the abovementioned requirements, based on the evidence on record.

However, the petitioner was granted a refund for only Php4,133,940.15, for failure of a part of its claim to meet the invoicing requirements. In order to prove entitlement to credits for input taxes due or paid, the same must be evidenced by VAT invoices (for domestic purchases of goods) or ORs (for domestic purchases of services) issued in accordance with Section 113 of the Tax Code, as amended, as the case may be, as well as the import entry or other equivalent documents showing actual payment of VAT (for importation of goods) and BIR Form No. 1600 with corresponding payment confirmation (for services rendered by non-residents).

37. ***Manila Electric Company v. Central Board of Assessment Appeals, Local Board of Assessment Appeals of Bacoor City, Cavite, Office of the City Treasurer of Bacoor, represented by Atty. Edith C. Napalan, City Treasurer of Bacoor City,*** **CTA EB No. 2736, 15 August 2024.**

On 27 June 2017, Petitioner-Appellant Meralco received a copy of the "Summary of Collectibles-Electrical Poles as of June 2017" ("Summary of Collectibles") with attached various Real Property Tax Bills requiring it to settle the real property taxes due on its electric poles in the total amount of Php14,345,558.18 covering the taxable periods from 1996 to 2017.

On 11 September 2017, the petitioner-appellant filed a Protest on the Summary of Collectibles before the Office of the City Treasurer for the period covering 1996-2017. The petitioner-appellant paid under protest the said collectibles by posting a Surety Bond issued in the same amount as the collectibles.

On 08 January 2018, the petitioner-appellant filed an Appeal with the LBAA on the ground of the denial by inaction of the Bacoor City Treasurer on the letter-protest dated 10 September 2017 questioning the validity of the Summary of Collectibles. The LBAA in its Resolution dated 09 January 2019, found the appeal partially meritorious.

Hence, on 21 March 2019, the petitioner-appellant filed a Motion for Partial Reconsideration of the said Resolution. On 11 December 2019, the petitioner-appellant received an Order dated 14 November 2019 issued by the LBAA denying such Motion.

On 09 January 2020 and 10 January 2020, the petitioner filed an appeal with the CBAA. On 19 August 2022, the CBAA rendered the assailed Decision granting, albeit partially, the petitioner's Appeal. In the assailed Decision, the CBAA ruled that while it agrees with the LBAA in holding that the petitioner's electric posts may qualify as "machinery" subject to real property tax under the Local Government Code of 1991 (LGC), the CBAA, however, ruled that the City of Bacoor has no authority to assess and demand real property tax before 10 April 2012.

The CBAA explained that under Section 232 of the LGC, the power to levy real property tax belongs to (1) a province, (2) a city, and (3) a municipality within the Metropolitan Manila Area. According to the CBAA, the municipality of Bacoor became the City of Bacoor on 10 April 2012, by virtue of Republic Act (RA) No. 10160, otherwise known as the "Charter of the City of Bacoor." Under Section 4 of its Charter, the City of Bacoor can levy an annual ad valorem tax on real property such as land, buildings, machinery, and other improvements not explicitly exempted under the LGC. Thus, consistent with Article 4 of the Civil Code, which states that laws shall have no retroactive effect unless the contrary is provided, the power of the City of Bacoor to levy an annual ad valorem tax on real property took effect only on 10 April 2012.

The Court ruled that the CBAA did not err in affirming the LBAA's ruling that the petitioner's electric posts are not exempt from real property tax under the Local Government Code without qualification, and not directing the City Assessor to determine whether other companies or industries are using them.

Meralco's transformers, electric posts, transmission lines, insulators, and electric meters were exempt from real property tax pursuant to the franchise granted to it by the Municipal Board of Lucena City through Resolution No. 2679 and the 1964 MERALCO case. However, this tax exemption was expressly withdrawn with the effectivity of the LGC on 01 January 1992, as provided under Section 234. However, the Court also pointed out that the Supreme Court has ruled in the past that every machinery must be individually appraised and assessed and that the Local Government Code mandates that the taxpayer be given a notice of assessment.

In this case, the LBAA found the Summary of Collectibles as of June 2017 with attached Real Property tax Bills issued by the City Treasurer of Bacoor for the period covering 1996-2017 null and void due to the failure of the City Assessor to issue the notices of assessment. Both the CBAA and the LBAA ruled that the Summary of Collectibles violated the petitioner's right to due process by failing to comply with the requirements of the LGC. The Court thus sustained the rulings of the the CBAA and the LBAA declaring the Summary of Collectibles as of June 2017 void, as it was issued without an appraisal and assessment of the electric posts and without serving a notice of assessment to the petitioner.

38. *Gamma Gray Marketing v. Bureau of Customs, represented by its Commissioner, Isidro S. Lapena,* CTA EB No. 2738, 15 August 2024.

Petitioner Gamma Gray Marketing (GGM) imported several motor vehicles on the following dates: 05 September 2017 (12 units of 2017 Toyota Land Cruiser GXR with a total contract value of $411,800.00); 13 October 2017 (2 units of brand new 2017 Chevrolet Camaro); 18 October 2017 (1 unit of brand new 2017 Range Rover Evoque and 1 unit of McLaren 720S Coupe); and 19 October 2017 (2 units of brand new 2017 Range Rover).

On 06 November 2017, Customs Officers from the BOC-MICP-Formal Entry Division seized the 05 September 2017 shipment and filed the respective Reports of Seizure for alleged undervaluation or violation of Section 1400 of the CMTA.

On 11 January 2018, then MICP OIC-District Collector Atty. Ruby Claudia M. Alameda issued a Warrant of Seizure and Detention (WSD) for the 13 October 2017 imported motor vehicles.

On 24 January 2018, then MICP Acting District Collector, Atty. Balmyrson M. Valdez issued an Order, finding probable cause for the issuance of a WSD. On even date, a WSD was issued for the 18 October 2017 imported motor vehicles.

On 18 January 2018, then MICP Acting District Collector Valdez issued another Order, finding probable cause for the issuance of a WSD. Thus, the following day, or on 19 January 2018, a WSD was issued against the 19 October 2017 imported motor vehicles.

As the cases involved the same importer (i.e., petitioner GGM) and the same issues, the four (4) seizure proceedings, i.e., S.I. Nos. 107-2017 (MICP), 115-2017 (MICP), 005-2018 (MICP) and 004-2018 (MICP), were eventually consolidated.

On 08 February 2018, then MICP Acting District Collector Valdez issued the Consolidated Order, decreeing the forfeiture of all eighteen (18) imported vehicles of herein petitioner in favor of the government.

On April 25, 2018, the petitioner filed its Petition for Review, which was subsequently docketed as CTA Case No. 9855.

After trial, the CTA Special 2nd Division rendered the assailed Decision on 27 July 2022, as follows:

> "Finally, taking into consideration the discrepancies discovered during value verification that evince intent to under-declare the subject shipments' value, plus the fact that petitioner imported the subject motor vehicles without securing the requisite BIR Permit to Operate as Importer of Automobiles (contrary to law and existing rules and regulations), this Court is inclined to rule that there exists probable cause for the issuance of WSDs against the subject imported motor vehicles for possible violation of Section 1400 of the CMTA.
>
> WHEREFORE, in light of the foregoing considerations, the instant Petition for Review filed by petitioner Gamma Gray Marketing on 25 April 2018 is hereby DENIED for lack of merit. Accordingly, respondent Bureau of Customs Commissioner Isidro S. Lapeña's assailed Consolidated Decision dated 09 March 2018 is hereby AFFIRMED.
>
> SO ORDERED."

The petitioner thus filed the instant petition. The Court ruled that in finding that there was probable cause for the seizure and forfeiture of the subject imported vehicles, the CTA Division found that the petitioner violated several provisions of the CMTA and existing rules and regulations, to wit: 1) the petitioner failed to submit the Importer's Sworn Statement (ISS) together with the import entry or single administrative document (SAD), contrary to Section 5.1.1 of Customs Memorandum Order (CMO) No. 29-2014; 2) As admitted by the petitioner's sole proprietor, it failed to first secure a Permit to Operate as an Importer of Automobiles before the importations of the subject motor vehicles. Thus, the importation of the subject motor vehicles without the requisite BIR Permit to Operate as Importer of Automobiles is contrary to law and existing rules and regulations, specifically, a violation of Section 11 of Revenue Regulations (RR) No. 25-2003; and, 3) the petitioner deliberately underdeclared the value of the subject importations, in violation of Sections 107 and 1400 of the CMTA.

Section 107 of the CMTA states that "[t]he declarant shall be responsible for the accuracy of the goods declaration and for the payment of all duties, taxes and other charges due on the imported goods." Section 1400 of the same law defines undervaluation. It is the responsibility of the importer to ensure the accuracy of the information contained in the goods declaration which includes the declared value of the imported goods. In case of doubt as to the valuation of the imported goods, and to aid in the of valuation of imported goods, the CMTA provides for the sequential application of valuation methods.

The totality of the circumstances: (1) undervaluation of the subject imported motor vehicles; (2) the petitioner's importation of the subject motor vehicles without a BIR Permit to Operate as Importer of Automobiles at the time of importation; and (3) the petitioner's failure to submit the required ISS and ATRIG, provided probable cause for the issuance of the WSDs.

BIR REVENUE REGULATIONS (RR)

1. **BIR RR No. 13-2024:** ***Providing extension of the deadlines for the filing of tax returns and payment of the corresponding taxes due thereon, including submission of required documents for taxpayers within the jurisdiction of Revenue District Offices of the BIR that were affected by Southwest Monsoon and Typhoon "Carina", and giving authority to the Commissioner of Internal Revenue to extend the deadline for the filing of the returns and other documents in times of force majeure,*** **24 July 2024**

The RR provides an extension of deadlines for the filing of tax returns, payment of corresponding taxes, and submission of required documents. This extension applies to taxpayers within the jurisdictions of Revenue District Offices affected by the Southwest Monsoon and Typhoon "Carina."

Key points include:

1. **Purpose**: The regulation aims to provide relief for taxpayers in affected areas by extending statutory deadlines due to disruptions caused by the weather conditions.

2. **Coverage**: The extension applies to various tax forms and documents, with new deadlines set for the end of July 2024.

3. **Authority**: The Commissioner of Internal Revenue is granted authority to further extend deadlines as necessary.

BIR Forms/Returns	Due Dates	Extended Due Dates
E-Filing/filing & Epayment/payment of BIR Form 2550Q (Quarterly Value-Added Tax Return) - eFPS and Non E-FPS Filers – for the quarter ending June 30 2024.	July 25 2024	July 31 2024
E-Filing/filing & Epayment/payment of BIR Form 2551Q (Quarterly Percentage Tax Return) - eFPS and Non E-FPS Filers – for the quarter ending June 30 2024.	July 25 2024	July 31 2024
Submission of Quarterly Summary List of Sales/Purchases/Importations by a VAT taxpayer – non – ePFS Filers- for the Quarter ending June 30 2024.	July 25 2024	July 31 2024
Submission of Sworn Statement of Manufacturer's or Importer's Volume of Sales of each particular Brand of Alcohol Products, Tobacco Products and	July 25 2024	July 31 2024

Sweetened Beverage Products – For the Quarter ending June 30 2024.		

2. **BIR RR No. 14-2024: *Rules and regulations governing the modes of disposition of seized/forfeited articles in line with Section 130, 131 and 225 of the National Internal Revenue Code of 1997, as Amended,* 14 August 2024.**

The RR aims to address the increasing enforcement operations against illicit trade, particularly in products like cigarettes, vape, perfumes, and other excise-taxed goods. There is a need to decongest storage facilities and dispose of confiscated items appropriately.

General Provisions:

- Seized or forfeited articles that pose a risk to public health or undermine tax law enforcement are categorized and subjected to specific modes of disposition.
- These include tobacco products, distilled spirits, non-essential goods, automobiles, machinery, and other excise-taxed items.

Modes of Disposition:

- Public Auction: Selling seized or forfeited items through competitive bidding.
- Negotiated or Private Sale: For unsold items after two failed public auctions, subject to approval.
- Official Use by BIR: Items suitable for official use may be declared as such after unsold auctions.
- Donation: Unsold items can be donated to other government agencies.
- Destruction: Items harmful to public health or law enforcement can be destroyed.

3. **BIR RR No. 15-2024: *Prescribing policies and guidelines in the mandatory registration of persons engaged in business and administrative sanctions and criminal liabilities for non-registration, as amended,* 15 August 2024.**

All individuals and entities engaged in business activities, including both physical and online businesses, must be properly registered with the BIR. The guidelines are set out to enforce compliance with the tax laws, particularly the National Internal Revenue Code (NIRC) of 1997, as amended, and relevant revenue issuances. Here's an expounded explanation of the key points:

1. Mandatory Registration: The regulation mandates that all persons, whether natural or juridical (corporations, partnerships, etc.), engaged in any form of trade or business in the Philippines must register with the BIR. This includes traditional brick-and-mortar stores, as well as online businesses and platforms.

2. Scope of Coverage: Businesses covered include:
    - Sale and/or lease of goods and services through physical stores.
    - E-commerce or online businesses (formal or informal), including the sale, procurement, or availment of physical or digital goods, digital content, digital financial services, entertainment, travel, transport, educational services, social commerce, on-demand labor, property rentals, and more.
    - Operation of digital platforms, including e-marketplace platforms.
    - Digital content creation and streaming that generate income.
    - E-retailing, online freelance services, and other online business models.

3. When to Register:
    - New Businesses: Businesses must register with the BIR before commencing operations.
    - Existing Businesses: If an entity has already started operations but has not yet registered, they must do so immediately to avoid penalties.
    - Specific Deadlines: Registration must be completed within ten (10) days from the date of employment, before the commencement of business, before payment of any tax due, or upon filing of a return, statement, or declaration as required under the Tax Code.

4. Special Considerations for Online Businesses
    - Digital Platforms: Digital platforms, such as e-marketplaces, are required to ensure that merchants using their platforms are registered with the BIR. The platform operators themselves must also be registered.

BIR REVENUE MEMORANDUM ORDERS (RMO)

1. **BIR RMO No. 28-2024:** ***Further Amending Revenue Memorandum Order (RMO) No. 24-007, as amended by RMO No. 22-2009, on the Preparation, Consolidation and Monitoring of BIR Form No. 1770 (Comparative Monthly Summary of Tax Returns/Payments Forms Filed) and its Prescribed Format,*** **10 August 2024.**

The objectives of this memorandum order include:

1. Prescribing the procedures in accomplishing the revised BIR Form No. 1770;
2. Improving the reporting and monitoring structure of tax returns filed in the Revenue District Offices and concerned Divisions under the Large Taxpayer Service; and
3. Revising the prescribed format of BIR Form No. 1770.

Prescribed procedure in accomplishing the revised BIR Form No. 1770:

1. The Data Warehousing and Systems Operations Division (DWSOD) shall:
    a. Generate every 5th day of the following month the Number of Tax Returns Filed per RDO and the Divisions under the Large Taxpayers Service monthly. Data shall be sourced from eFPS, eBIRForms, Integrated Tax System (ITS), Internal Revenue Integrated System (IRIS), and Date Entry Module (DEM) based on filing date following the format in Annex A; and

    b. Transmit the report to the Research and Statistics Division (RSD), two (2) days after the generation date.

2. The Document Processing Division (DPD) shall:
    a. Submit to RSD, a copy of the Summary of Non-Encodable Returns Received, as shown in Annex B. (This is a report of the number of TRAIN Law forms transmitted to DPD, but could not be encoded in ITS which, consequently, would not be included in the date to be generated by the DWSOD.)

3. The Research and Statistics Division (RSD) shall:
    a. Acknowledge the receipt of the generated reports by DWSOD;

b. Acknowledge the receipt of the Monthly Summary of Un-encodable Returns from the DPD; and

c. Consolidate the reports submitted by DWSOD, and DPD to finalize the Comparative Monthly Summary of Tax Returns/Payment Forms Filed (BIR Form No. 1770) using the prescribed format in Annex C, every 10th day of the following month.

The generation of the revised BIR Form No. 1770 shall cover the period from January 2021 and onwards.

2. BIR RMO No. 29-2024: *Amending RMO No. 11-2024, Prescribing the Revised Allocation of the CY 2024 BIR Collection Goal, by Implementing Office,* 22 July 2024.

RMO No. 29-2024 amended the General Policies and Guidelines set out in RMO No. 11-2024. In this amendment, BIR prescribed the Revised Allocation of the CY 2024 BIR Collection Goal per Implementing Office.

As provided in Table #3 of the Attachments, the grand total of the collection goal, by implementing office for CY2024 is Php3,046,751,275.00. This is lower by Php8,417,725 from the total collection goal as provided in RMO No. 11-2024.

3. BIR RMO No. 30-2024: *Amending Certain Provision of RMO No. 24-2024,* 29 July 2024.

This memorandum order amends the portion of Annex A of RMO No. 24-2024 – Operational Key Performance Indicators for CY 2024.

Amendment:

The 3rd and 4th columns in Item No. 9 of Annex A of RMO No. 24-2024 are hereby amended as follows:

No.	KPI	Target	Formula
9	Oplan Kandado	One (1) accomplished case* per semester per RDO *The subject establishment either: a. was approved for closure; or b. fully complied with and paid the findings contained in the 48-Hour Notice/5-Day VAT	Number of accomplished cases / Target for the period x 100

		Compliance Notice	

4. **BIR RMO No. 31-2024: *Revised Customer Satisfaction Survey Form under Client Support Service,* 08 August 2024.**

A new order to implement a revised Customer Satisfaction Survey Form, as detailed in Revenue Memorandum Orders (RMO) No. 37-2023 and 2-2024, due to changes in the BIR Citizen's Charter.

Changes in Service Names and Procedures: Updates in documentary requirements per Revenue Memorandum Circular No. 27-2024.

Introduction of New Services: Due to the implementation of the Online Registration and Update System (ORUS) and the passage of the Ease of Paying Taxes (EOPT) Act.

All BIR frontliners are enjoined to administer the revised survey forms to taxpayers upon the completion of their transactions, ensuring all fields are properly filled out. This order is effective from 01 September 2024.

5. **BIR RMO No. 32-2024: *Policies and Procedures in the Certification of Total National Tax Collections from Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) and the Corresponding Seventy - Five Percent (75%) Share of the Bangsamoro Government (BG),* 13 August 2024.**

The Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) mandates that 75% of national taxes collected in BARMM go to the Bangsamoro Government (BG), with the remaining 25% going to the National Government (NG). This policy will apply for the first ten (10) years, after which the BG may request an extension. Tax collection remains under the Bureau of Internal Revenue (BIR) until the Bangsamoro Revenue Office is established.

Certification of Tax Collections:

- The Bureau of Internal Revenue (BIR) certifies the total national taxes collected in BARMM, determining the 75% share for the Bangsamoro Government and the 25% share for the National Government.

Roles and Responsibilities:

- The **Revenue Accounting Division (RAD)** issues monthly certifications of tax collections, ensuring accurate allocation between the BG and NG.
- The **Revenue District Offices (RDOs)** in BARMM validate and prepare certifications of tax collections, submitting them to RAD by the 30th day of the following month.
- The **Regional Finance Divisions (RFDs)** validate collections from Revenue Collection Officers (RCOs) and prepare certifications.

Validation and Submission:

- RAD extracts, validates, and reconciles tax collection data, computes the shares, and prepares a joint certification with the Bureau of the Treasury (BTr), ensuring submission by the 75th day after the collection month.

BIR REVENUE MEMORANDUM CIRCULARS (RMC)

1. **BIR RMC No. 79-2024:** ***Further Extending the Transitory Period Prior to Actual Imposition of Withholding Tax on Gross Remittances Made by Digital Financial Services Providers to Sellers/Merchants Prescribed under Revenue Regulations No. 16-2023,*** **15 July 2024.**

The transitory period for the actual imposition of withholding tax on gross remittances made by digital financial services providers is extended for another ninety (90) days or until 12 October 2024, to give them additional time to complete their system adjustments for compliance.

2. **BIR RMC No. 80-2024:** ***Availability of the New BIR Website (addressed to all internal revenue officials, employees, and others concerned),*** **17 July 2024.**

This Circular was issued to announce the availability of the new BIR Website (https://www.bir.gov.ph) starting on 17 July 2024.

The enhancement of the BIR Website was undertaken to make it more user-friendly and responsive to the needs of the BIR's stakeholders in terms of access to updated tax information and various BIR electronic services.

3. **BIR RMC No. 81-2024:** ***Tax Treatment of Sukuk (Islamic Bond) as Islamic Banking Arrangement Pursuant to the Tax Neutrality Provision of Republic Act No. 11439 (An Act Providing for the Regulation and Organization of Islamic Banks) as Implemented by Revenue Regulations No. 17-2020*****, 18 July 2024.**

Background:

Sukuk are one of the most significant mechanisms for raising finance in the capital markets through Islamically acceptable structures. Multinational corporations, sovereign bodies, state corporations and financial institutions use *Sukuk* issuance as an alternative to syndicated financing or to bond issuance.

Sukuk are interest-free bonds that generate returns to investors without infringing the principles of *Shari'ah* (Islamic law) which prohibits the payment of interest (*riba)*. They are *Shari'ah*-compliant securities backed by a specific pool of underlying assets.

This Circular is issued to provide the tax treatment of *Sukuk* pursuant to the tax neutrality provision of Section 14 of Republic Act No. 11439 as implemented by Revenue Regulations (RR) No. 17-2020.

Guidelines:

1. RR No. 17-2020 requires that Islamic banking transactions are taxed no more heavily (and no more lightly) than conventional banking transactions. Any reference to "interest" shall apply to gains or profits received and expenses incurred in Islamic banking arrangements, in lieu of interest income and/or expenses under conventional banking transactions.

2. *Sukuk* are defined by the Bangko Sentral ng Pilipinas (BSP) as "certificates of equal value representing undivided shares in ownership of tangible assets, usufructs and services or (in the ownership of) assets of particular projects or special investment activity that is undertaken in accordance with *Shari'ah* principles. *Sukuk* are generally named after the *Shari'ah* principle by which they are structured.

Taxability

Sukuk issued, structured in a *Shari'ah*-compliant manner, but with economic characteristics similar to bonds, are subject to the following taxes:

1. Determination of Gain: The gain or profit in *Sukuk* is determined based on the specific structure and terms of the *Sukuk* issuance. It can be calculated through profit-sharing ratios, rental income, mark-up or price differentials, or the sale of underlying assets. The method of determining gain or profit depends on the contractual arrangements outlined in the *Sukuk* documentation.

    a. Gains or profits realized by *Sukuk* holders from transactions with maturity of less than five (5) years are subject to 20% final withholding tax (FWT). On the other hand, those maturity of five (5) years or more are excluded from gross income and are thus exempt from income tax.

    b. In the case of *Sukuk* pre-termination, entire gains or profits realized by *Sukuk* holders are subject to FWT with varying rates based on the remaining maturity:

        Four (4) years to less than five (5) years – 5%
        Three (3) years to less than four (4) years – 12%
        Less than three (3) years – 20%

    c. Gains or profits realized by *Sukuk* holders from *Sukuk* transactions, who are non-resident aliens not engaged in trade or business in the Philippines and non-resident foreign corporations are subject to 25% FWT.

2. The *Sukuk* issuer is required to withhold the tax at every payment of gains or profits and for purchases of asset either directly from a supplier or through an agent;

3. Gains or profits realized by an Originator/Obligor, Arranger, Manager and Underwriter from *Sukuk* transactions are subject to regular income tax and value-added tax (VAT) or percentage tax, whichever is applicable;

4. Gains or profits realized by the Special Purpose Vehicle (SPV) are subject to regular income tax but exempt from VAT;

5. Any disposal or lease of the underlying asset, and execution of any additional instrument required in a *Sukuk* transaction, for the purpose of compliance with *Shari'ah* principles but which will not be required in a conventional bond transaction, shall be deemed excluded for taxation purposes; and

6. A documentary stamp tax (DST) is imposed on all *Sukuk* instruments under Sections 176 and 179 of the Tax Code, unless exempted by Section 199(g).

4. **BIR RMC No. 82-2024: *Circularizing the Mandatory Display of National Privacy Commission (NPC) Seal of Registration,* 26 July 2024.**

In this Circular, all internal revenue officials and employees concerned are enjoined to:

1. Print in at least a letter size a colored copy of the NPC Seal of Registration, and to conspicuously display it at the main entrance of the office or at prominent locations most visible to data subjects;

2. With regard to online display, to make the NPC Seal of Registration visible by:
   a. Prominent display in the official website and all social media page/s of the respective Region and District Offices, and to embed the Seal as link within every Privacy Notice; and
   b. Set as wallpaper in all eLounge PCs.

To ensure strict compliance and commitment, the circular required all heads of offices to submit sufficient documentation of physical and online display to the BIR Data Protection Officer on or before 31 July 2024.

5. **BIR RMC No. 83-2024: *Tax Returns/Payment Forms Generated from the Electronic One Time Transaction (eONETT) System,* 30 July 2024.**

This Circular was issued to notify the public that taxpayers who have filed ONETT applications via the eONETT System and will manually pay the tax due computed thereon to any Authorized Agent Banks/Revenue Collection Officers shall present the tax return/payment form generated from the eONETT system, which bears the following notation:

"This document is generated from the eONETT System. "TIN verified" stamp and signature from RDO representative is NOT required. This also serves as proof that this tax return/payment form has been electronically filed, in lieu of the Tax Return Receipt Confirmation."

6. **BIR RMC No. 84-2024: *Clarification on the Publication of Revenue Issuances under Section 245 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 11976, otherwise known as the "Ease of Paying Taxes Act," as implemented by Revenue Regulations No. 2-2024,* 30 July 2024.**

This Circular clarified certain issues as to the publication of the BIR revenue issuances and other information materials, considering the passage of the "Ease of Paying Taxes Act" (EOPT)

Ultimately, this Circular decreed that all BIR revenue issuances issued after the effectivity of RR No. 2-2024, or 04 March 2024, may be published on the BIR's official website in compliance with Sec. 245 of the Tax Code.

This is in unison with Sec. 245 of the Tax Code, as amended by the EOPT, which allows the publication of BIR revenue issuances through BIR's official website or in the Official Gazette

7. **BIR RMC No. 85-2024: C*ircularizing Republic Act No. 12001, Entitled "AN ACT INSTITUTING REFORMS IN REAL PROPERTY VALUATION AND ASSESSMENT IN THE PHILIPPINES, REORGANIZING THE BUREAU OF LOCAL GOVERNMENT FINANCE, GRANTING OF TAX AMNESTY ON REAL PROPERTY, AND SPECIAL LEVIES ON REAL PROPERTY. AND APPROPRIATING FUNDS THEREFOR.",* 30 July 2024.**

This Circular is addressed to all internal revenue officers and others concerned furnishing them with a full text copy of R.A. No. 12001 entitled "An Act Instituting Reforms in Real Property Valuation and Assessment in the Philippines, Reorganizing the Bureau of Local Government Finance, Granting of Tax Amnesty on Real Property, and Special Levies on Real Property, and Appropriating Funds Therefor."

8. BIR RMC No. 86-2024: *Circularizing the New BIR Logo,* 19 July 2024.

In celebration of the 120th Founding Anniversary, a new BIR Logo was created explaining each seal symbolism guided by the principle "service excellence with integrity and professionalism.

ANNEX A

BUREAU OF INTERNAL REVENUE

Three stars
Pillar
Coin
Sun rays
Philippine Eagle
People with joined hands
1904

SEAL SYMBOLISM

PILLAR	:	Strength, stability and support, symbolizing the role of the Bureau of Internal Revenue (BIR) in providing the lifeblood of the government and BIR's authority and unwavering commitment in fulfilling its mission of collecting taxes through just enforcement of tax laws for nation building and upliftment of the lives of Filipinos.
PHILIPPINE EAGLE	:	The BIR's tenacity and resilience in overcoming the odds to achieve its goals, soaring high amidst all adversities. The "eagle eye" symbolizes the Bureau's vigilance and attention to detail in the enforcement of tax laws and collection of taxes.
3 STARS	:	The Philippine Archipelago's three principal islands – Luzon, Visayas and Mindanao, affirming BIR's dedication to serving the entire nation.
SUN RAYS	:	The BIR's role in guiding the nation towards prosperity through fair and transparent enforcement of tax laws.
PEOPLE WITH JOINED HANDS	:	The unity and cooperation of all BIR personnel and external stakeholders in propelling the nation to progress by being partners in nation building.
COIN	:	The BIR Mission to collect taxes through delivery of excellent taxpayer service and just enforcement of tax laws.
1904	:	The year the BIR was established through Act No. 1189 or the Internal Revenue Law of 1904, which took effect on 1 August 1904.

9. BIR RMC No. 087-2024: *Frequently asked questions relative to the filing of tax returns and payment of taxes pursuant to Revenue Regulations No. 4-2024, Implementing the Provisions of Republic Act No. 11976, Otherwise Known as "Ease of Paying Taxes (EOPT) Act",* 19 July 2024.

The Circular provides answers to frequently asked questions related to the filing of tax returns and payment of taxes in accordance with Revenue Regulations No. 4-2024, which implements the "Ease of Paying Taxes (EOPT) Act" (Republic Act No. 11976).

Key Points:

1. Electronic Filing and Payment:
    - Existing mandates for electronic filing (eFPS) remain in place.
    - Taxpayers already using eFPS must continue, while others may opt to use eBIRforms.
    - Manual filing is permitted if electronic systems are unavailable.

2. Manual Filing Exceptions:
   - Allowed when electronic systems are down, forms are unavailable, or with justifiable reasons as determined by the BIR.

3. Payment Methods:
   - Taxpayers can use various electronic payment (ePay) gateways such as LBP, DBP, and UBP, as well as Tax Software Providers like MyEG and Maya.
   - Cash payments to Revenue Collection Officers (RCOs) are limited to Php 20,000, with no limit on check payments.

4. Electronic Submission of Attachments:
   - Attachments to tax returns should be submitted electronically through the eAFS or eSubmission Facility. Manual submission is allowed if these facilities are unavailable.

5. Removal of Surcharge for "Wrong Venue" Filing:
   - The 25% surcharge for filing in the wrong venue has been removed under the EOPT Act.

6. Guidelines for Check Payments:
   - Specific guidelines are provided for preparing checks for tax payments, differing based on whether payment is made to an AAB or RCO.

7. Flexibility in Payment Locations:
   - If the receiving AAB branch is offline, taxpayers may transfer to another branch of the same AAB.

10. BIR RMC No. 89-2024: *Clarifying the taxability of income derived by Local Government Units engaged in proprietary functions*, 30 July 2024.

The Circular reiterates that any income derived by an LGU acting its corporate capacity and for the purpose of economic gain and profit ("Proprietary Income") shall be subject to tax and treated just like income of any other private or government corporation. Further, the Circular stresses that the tax exemption privileges, including preferential tax treatment of all government units, including for the avoidance of doubt, LGUs, were withdrawn by Presidential Decree No. 1931 and Executive Order No. 93.

Given the foregoing, the Proprietary Income derived by LGUs shall be subject to the following taxes:

1. Income Tax – this includes income taxes imposed on passive income under Section 27(D) of the Tax Code such as, but not limited to, royalties, interests, dividends, sale of shares of stocks, income derived under the expanded foreign currency deposit system, and capital gain realized from sale, exchange, or other disposition of lands and/or buildings which are not actually used in the performance of such LGU's governmental functions.

2. Withholding Tax – income payments to LGUs by reason of performance of proprietary functions shall be subject to withholding tax pursuant to Revenue Regulations (RR) No. 2-98.

3. Value-Added Tax – when LGUs perform corporate or private functions that is proprietary in nature, it shall be held liable for 12% VAT on the total gross sales it derived from such activity.

4. Other Percentage Taxes – income derived by LGUs from its proprietary functions that falls under Title V of the Tax Code shall be subject to percentage tax on the tax rates provided therein.

5. Documentary Stamp Tax – LGUs entering into private contracts/agreements relating to its performance of corporate or private function that is proprietary in nature, similar with private corporations, shall be held liable for DST under the Tax Code.

For transactions subject to the above internal revenue taxes, LGUs shall issue the appropriate invoice/s complying with the requirements under Section 237 of the Tax Code, as amended by Republic Act No. 11976 (EOPT Act), and as implemented by RR No. 7-2024 and other existing rules and regulations. Thus, LGUs shall apply for Authority to Print for the printing of their principal and supplementary invoices following the procedure under RR No. 7-2024 and other relevant revenue issuances.

11. BIR RMC No. 091-2024: *Clarification on Registration Procedures Pursuant to Revenue Regulations No. 7-2024, as amended by Revenue Regulations No. 11-2024,* 14 August 2024.

This Circular clarifies the registration-related procedures provided under Revenue Regulations (RR) No. 7-2024, as amended by RR No. 11-2024, in relation to Republic Act No. 11976 (EOPT Act).

All individuals and entities subject to internal revenue tax must register with the BIR, either electronically or manually, within specific timelines based on the type of taxpayer.

On Ways to Register with BIR:

- Manual registration at RDOs.
- Online through the:
  - New Business Registration Portal;
  - Taxpayer Registration-Related Application Portal;
  - Philippine Business Hub; or
  - Online Registration and Update System (ORUS).

On Commencement of Business:

- Commencement of business shall be reckoned from the day when the first sale transaction occurred or upon the lapse of thirty (30) calendar days from the issuance of the Mayor's Permit/Professional Tax Receipt (PTR)/ Occupational Tax Receipt (OTR) by Local Government Unit (LGU), or the Certificate of Business Name Registration (CBNR) issued by Department of Trade and Industry (DTI), or the Certificate of Registration (COR) issued by Securities and Exchange Commission (SEC), whichever comes first.

- A person shall be considered to have violated this provision when such person failed to register with the BIR within thirty (30) calendar days from the issuance of Mayor's Permit/PTR/OTR by the concerned LGU, or COR/CBNR issued by the SEC/DTI or the date of its first sales transaction.

On Foreign Nationals:

- Foreign nationals who are securing work and employment permits shall be registered with the BIR following the policies and guidelines prescribed in Revenue Memorandum Order No. 28- 2019 (Policies and Guidelines on the Registration Requirements of Foreign Nationals).

On Registration Issues:

- If errors occur during online registration, manual registration is permitted at the RDO with proof of error, except in cases where the BIR issued an Advisory that the ORUS is unavailable.

On Posting Certificate of Registration (COR):

- For taxpayers with a physical store, it shall be posted in a conspicuous place in the business establishment that can be easily seen by the public. For online sellers, an electronic copy of the COR (eCOR) shall be posted on the sellers' website(s) or profile pages at the e-commerce platform. Online sellers whose COR bears a Quick Response (QR) code generated thru ORUS or PBH may post such QR Code at the sellers' website(s) or profile pages at the e-commerce platform in lieu of the electronic copy of COR.

- In case of a peddler or other persons not having a fixed place of business, the COR/eCOR shall be kept in the possession of the holder thereof or at the place of residence or at the Head Office's address, if applicable, subject to production upon demand of any internal Revenue Officer.

- Taxpayers engaged in business shall register with the BIR all of their business/trade names as registered in SEC or DTI and declare their "store names" used in all their online page, account, website or e-commerce platforms, which shall be reflected as business names in the COR. Store Name refers to the seller's brand or business within the online page, account, website or ecommerce platforms.

On Annual Registration Fee:

- The annual registration fee of P500 is no longer required as of January 22, 2024, under the EOPT Act.

On Books of Accounts Registration:

- Must be registered through ORUS, with a QR Code Stamp as proof. Manual registration is allowed under specific conditions:

  <u>New Business Registrants</u>

  - Manual Books – Must be registered before the deadline for filing of the initial quarterly Income Tax Return (ITR) or annual ITR, whichever comes earlier, and before the full consumption of the pages of the previously registered books.

  <u>Existing Business Taxpayers or Subsequent Registration of Books of Accounts</u>

  - Manual Books - Must be registered before the use of the books, and before the full consumption of the pages of the previously registered books.

  - Permanently bound Loose Leaf Books - Must be registered annually, within fifteen (15) days after the end of each taxable year unless extended by the Commissioner or his duly authorized representative upon request of the taxpayer before the lapse of the said period.

  - Computerized Books of Accounts – Must be registered annually, within thirty (30) days from the close of each taxable year unless extended by the Commissioner or his duly authorized representative upon request of the taxpayer before the lapse of the said period

- New sets of manual Books of Accounts are not required to be registered every year. However, taxpayers may have the option to use new sets of manual Books of Accounts yearly, which should be registered prior to its use.

- A QR Code Stamp, which shall be generated for Books of Accounts registered thru ORUS, shall serve as the taxpayer's proof of registration. It shall contain the following information:

    a. TIN;
    b. Registered Name;
    c. Registered Address;
    d. Type of Book (Manual, Loose Leaf or Computerized);
    e. Books Registered
    f. Permit No. / Acknowledgment Certificate Control No. – for Loose Leaf or Computerized Books of Accounts;
    g. Permit to Use (PTU) / ACCN date issued – for Loose Leaf or Computerized Books of Accounts;
    h. Quantity;
    i. Volume No.; and
    j. Date Registered.

- The QR Code shall determine the authenticity of the printed QR Code Stamp when scanned by any smartphone, which will be redirected to the BIR ORUS website. Taxpayers shall print the QR Code Stamp and paste it on the first page of the manual Books of Accounts and permanently bound loose leaf Books of Accounts.

- For computerized Books of Accounts, the QR Code Stamp shall be printed and be kept for record purposes.

- After registering in ORUS, there is no need to go to the RDO for the submission of transmittal letter and USB flash drive (for computerized Books of Accounts) and manual stamping of the books (for manual or loose leaf Books of Accounts).

- Manual registration of Books of Accounts at the RDO shall only be allowed under the following circumstances:

    a. The taxpayer is experiencing technical issues in ORUS (with proof of error or issue);
    b. The taxpayer is already in the office premises of the RDO registering on the day of the deadline; or
    c. The business taxpayer registering Books of Accounts is a senior citizen.

On Transfer of Registration Records:

- Transfer of BIR registration will be done by mere filing/submission of the application (BIR Form 1905) along with the following documents:

    - For transfer of registration of individuals not engaged in business
        - BIR Form 1905 (2 original copies)

    - For transfer of registration to another RDO

- BIR Form 1905 (3 original copies)
- Inventory list of unused invoices and supplementary invoices, or letter request with inventory list, for the use of unused invoices/supplementary invoices in the new RDO
- Notarized Transfer Commitment Form (3 original copies)
- Amended Articles of incorporation/partnership/cooperation (for non-individuals), submitted to the new RDO
- Mayor's business permit for the new place of business

On Closure of Business Registration:

- Closure of BIR registration will be done by mere filing/submission of the application (BIR Form 1905) along with the following documents:
    - BIR Form 1905 (2 original copies);
    - List of Ending Inventory of Goods, Supplies, including Capital Goods (1 original copy)
    - Inventory list of unused invoices and supplementary invoices, together with unused invoices/supplementary invoices and all other unutilized accounting forms;
    - Original copies of business notices and permits (e.g. ATP, Notice to Issue Receipt/Invoice (NIRI), Accreditation Certificate and Permit to Use – for CRM/POS) issued to the taxpayer; and
    - Original Copy of the COR.