TMAP TAX UPDATES

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COURT OF TAX APPEALS *EN BANC* DECISIONS

COMELEC v. CIR *(CTA EB No. 1581 dated January 17, 2019)*

WHEN THE WITHHOLDING AGENT IS THE GOVERNMENT OR ANY OF ITS AGENCIES, ETC., THE RESPONSIBLE EMPLOYEE SHALL BE PERSONALLY LIABLE FOR THE ADDITIONS TO THE TAX. The basis of this proposition is Section 24(B) of the National Internal Revenue Code (NIRC).

COMELEC v. CIR, CIR vs. COMELEC *(CTA EB No. 1581 & 1660 dated January 17, 2019)*

IN CASES FALLING UNDER THE EXCLUSIVE APPELLATE JURISDICTION OF THE COURT EN BANC, THE PETITION FOR REVIEW OF A DECISION OR RESOLUTION OF THE COURT IN DIVISION MUST BE PRECEDED BY THE FILING OF A TIMELY MOTION FOR RECONSIDERATION OR NEW TRIAL WITH THE DIVISION. In order for the CTA En Banc to take cognizance of an appeal via a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word 'must' indicates that the filing of a prior motion is mandatory, and not merely directory.

THE AFFIRMATIVE VOTES OF THE FIVE (5) MEMBERS OF THIS COURT, SITTING EN BANE, ARE NECESSARY TO REVERSE A DECISION RENDERED BY THE COURT IN DIVISION. WHERE SUCH VOTES ARE NOT ATTAINED, THE SUBJECT PETITION SHALL BE DISMISSED; AND IN APPEALED CASES, THE JUDGMENT OR ORDER APPEALED FROM SHALL STAND AFFIRMED.

CIR v. GIC Private Limited *(CTA EB No. 1753 dated January 18, 2019)*

UNDER THE FINAL WITHHOLDING TAX SYSTEM, THE AMOUNT OF INCOME TAX WITHHELD BY THE WITHHOLDING AGENT IS CONSTITUTED AS A FULL AND FINAL PAYMENT OF THE INCOME TAX DUE FROM THE PAYEE ON THE SAID INCOME. Proof of actual remittance of a final withholding tax to the BIR is not a condition before a taxpayer can claim an erroneously or illegally collected final withholding tax. Proof of remittance is not even a condition to claim for a refund of unutilized tax credits or creditable withholding tax. The final withholding tax is the full and final payment of income tax due from the recipient of the income and the obligation to withhold the tax is imposed by law on withholding agent. The taxpayer claimant need not prove the remittance of the final withholding tax since it is the withholding agent's obligation to withhold the same.

Lepanto Consolidated Mining Company v. CIR *(CTA EB No. 1682 dated January 18, 2019)*

FINAL AND EXECUTORY JUDGMENT OR ORDER MAY BE EXECUTED ON MOTION WITHIN FIVE (5) YEARS FROM THE DATE OF ITS ENTRY. AFTER THE LAPSE OF SUCH TIME, AND BEFORE IT IS BARRED BY THE STATUTE OF LIMITATIONS, A JUDGMENT MAY BE ENFORCED BY ACTION. Execution by motion is only available if the enforcement of

the judgment was sought within five (5) years from the date of its entry. This is a matter of right. On the other hand, execution by independent action is mandatory if the five-year prescriptive period for execution by motion had already elapsed. The said judgment is reduced to a right of action which must be enforced by the institution of a complaint in a regular court. The action must be filed before it is barred by the statute of limitations which, under the Civil Code, is ten (10) years from the finality of the judgment.

CIR v. Manasoft Technology Corporation *(CTA EB No. 1637 dated January 18, 2019)*

THE CTA HAS JURISDICTION OVER THE DETERMINATION OF THE VALIDITY OF A WARRANT OF DISTRAINT AND LEVY CONDITIONED ONLY ON THE TIMELY FILING OF A PETITION FOR REVIEW. Accordingly, an assessment that has become final, upon the lapse of the period to file the Petition for Review, only means that the validity or correctness of the assessment and the WDL may no longer be questioned on appeal.

Zuellig Pharma Asia Pacific Ltd. Phils. ROHQ vs. CIR *(CTA EB No. 1656 dated January 21, 2019)*

THE 120 DAY PERIOD FOR THE ADMINISTRATIVE CLAIM FOR REFUND SHALL BEGIN TO RUN FROM THE SUBMISSION OF THE ADDITIONAL DOCUMENTS REQUIRED BY THE INVESTIGATING/PROCESSING OFFICE. If in the course of investigation and processing of the claim for refund, additional documents are required for the proper determination of the amount of the claim for refund, the taxpayer shall submit the such documents within thirty (30) days from request of the investigating/processing office. Notice, by way of a request from the tax collection authority to produce the complete documents is essential. Upon submission of the required documents, the 120-day period shall commence.

Commissioner of Customs v. Air Philippines Corporation; CIR v. Air Philippines Corporation *(CTA EB No. 1622 & 1623 dated January 21, 2019)*

A PARTY ADVERSELY AFFECTED BY A RESOLUTION OF A DIVISION OF THE CTA ON A MOTION FOR RECONSIDERATION OR NEW TRIAL, MAY FILE A PETITION FOR REVIEW WITH THE CTA EN BANC. What may be brought up to Court En Banc, by way of appeal, are resolutions on a motion for reconsideration or new trial issued by the Court in Division, by the party adversely affected thereby.

AN AMENDED DECISION IS ONE WHICH MODIFIES OR REVERSES A PRIOR DECISION OF THIS COURT, AND IT IS A DISPOSITION OF A CASE ON THE MERITS; OTHERWISE, IT IS A RESOLUTION.

NO PARTY SHALL BE ALLOWED TO FILE A SECOND MOTION FOR RECONSIDERATION OR FOR NEW TRIAL OF A DECISION, FINAL RESOLUTION OR ORDER. It is plain that the prohibition is on a second motion for reconsideration or new trial of, inter alia, a decision. Relative thereto, an amended decision cannot be equated to the decision which precedes it. This is simply because, as already intimated, an amended decision modified or reversed a prior decision; and hence, an amended decision is a different decision. Such being the

case, a motion for reconsideration of an amended decision cannot be treated as a second motion for reconsideration.

CIR v. Port Barton Development Corporation *(CTA EB No. 1743 dated January 21, 2019)*

REQUISITES IN ORDER FOR AN EXPORT SALE TO QUALIFY AS ZERO-RATED:
1. that there was sale and actual shipment of goods from the Philippines to a foreign country;
2. that the sale was made by a VAT-registered person;
3. that the sale was paid for in acceptable foreign currency or its equivalent in goods or services; and
4. that the payment was accounted for in accordance with the rules and regulations of the BSP.

THREE TYPES OF DOCUMENTS THAT MUST BE PRESENTED IN ORDER FOR A VAT-REGISTERED PERSON TO CLAIM VAT-ZERO RATED DIRECT EXPORT SALE:

1. sales invoice as proof of sale of goods;
2. export declaration and bill of lading or airway bill as proof of actual shipment of goods from the Philippines to a foreign country; and
3. bank credit advice, certificate of bank remittance or any other document proving payment for the goods in acceptable foreign currency or its equivalent in goods and service

City of Davao vs. ASC Investors, Inc. *(CTA EB No. 1749 dated January 22, 2019)*

AS A GENERAL RULE, THE TAXING POWER OF A LOCAL GOVERNMENT UNIT DOES NOT EXTEND TO INCOME TAX. THE EXCEPTION IS IF IT IS LEVIED ON BANKS AND OTHER FINANCIAL INSTITUTIONS. THUS, THE TAXING POWER OF A LOCAL GOVERNMENT UNIT MAY EXTEND TO INCOME TAX AS LONG AS IT IS LEVIED ON BANKS AND OTHER FINANCIAL INSTITUTIONS. A holding company is not included by the Local Government Code, specifically Section 131(e) thereof in the definition of banks and other financial institutions. The enumeration is evidently exclusive of other entities. Had the legislature intended to include holding company among the exceptions, the same could have been expressly provided but it did not.

E.E. Black Ltd. -Philippine Branch v. CIR *(CTA EB No. 1611 dated January 22, 2019)*

DEFICIENCY INTEREST SHALL BE RECKONED FROM THE DATE PRESCRIBED FOR PAYMENT OF THE DEFICIENCY TAX UNTIL FULL PAYMENT THEREOF WHILE DELINQUENCY INTEREST SHALL ALSO BE COLLECTED COMPUTED FROM THE DUE DATE PRESCRIBED UNDER THE ASSESSMENT NOTICE UNTIL FULL PAYMENT THEREOF.

CIR v. OCE HOLDING B.V. *(CTA EB No. 1644 dated January 23, 2019)*

THE CERTIFICATION OF TAX EXEMPTION DOES NOT NEED TO STATE THE EXACT AMOUNT OF CGT SUBJECT OF THE EXEMPTION. The exact amount can be referenced, deduced, and identified from the document submitted by the applicant.

CIR vs. Honda Cars Makati Inc *(CTA EB No. 8806 dated January 24, 2019)*

REQUISITES FOR CLAIMING FOR A TAX CREDIT OR REFUND OF CREDITABLE WITHHOLDING TAX:

1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax;
2) It must be shown on the return that the income received was declared as part of the gross income; and
3) The fact of withholding must be established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld.

San Miguel Brewery v. CIR *(CTA EB No. 1772 dated January 24, 2019)*

THE CTA HAS JURISDICTION TO PASS UPON THE CONSTITUTIONALITY OR VALIDITY OF A TAX LAW OR REGULATION WHEN RAISED BY THE TAXPAYER AS A DEFENSE IN DISPUTING OR CONTESTING AN ASSESSMENT OR IN CLAIMING A REFUND. What is important is that the constitutional issue must be properly raised and presented in the case, and its resolution is necessary to the determination of the case.

CIR v. Filminera Resources Corporation *(CTA EB No. 1681 dated January 28, 2019)*

THE SALES OF GOODS, PROPERTIES AND OR SERVICES MADE BY VAT-REGISTERED SUPPLIER TO A BOI-REGISTERED MANUFACTURER/PRODUCER WHOSE PRODUCTS ARE 100% EXPORTED ARE CONSIDERED EXPORT SALES SUBJECT TO VAT AT ZERO PERCENT RATE. This is pursuant to Sec. 106(A)(2)(a)(5) implemented by Sec. 4.106(a)(5) of Revenue Regulations No. 16-2005, as amended by RR No. 4-2007.

City of Davao vs. ARC Investors, Inc. *(CTA EB No. 1589 dated January 29, 2019)*

THE POWER OF THE LOCAL GOVERNMENTS TO IMPOSE TAX IS SUBJECT TO CERTAIN LIMITATIONS PROVIDED BY THE LAW AND THE PHILIPPINE CONSTITUTION. ONE OF THESE LIMITATIONS IS THE PROHIBITION AGAINST IMPOSING INCOME TAX EXCEPT WHEN IMPOSED ON BANKS AND OTHER FINANCIAL INSTITUTIONS AS SET FORTH BY THE AFOREQUOTED SECTION 133 (A) OF THE LGC OF 1991.

City Government of Makati, et al. vs. RTC Makati, *(CTA EB No. 1456 dated January 29, 2019)*

THE SUPERVISORY POWER OR JURISDICTION OF THE CTA TO ISSUE A WRIT OF CERTIORARI IN AID OF ITS APPELLATE JURISDICTION SHOULD CO-EXIST WITH, AND BE A COMPLEMENT TO, ITS APPELLATE JURISDICTION TO REVIEW, BY APPEAL,

THE FINAL ORDERS AND DECISIONS OF THE RTC, IN ORDER TO HAVE COMPLETE SUPERVISION OVER THE ACTS OF THE LATTER.

City of Davao v. Soriano Shares, Inc. *(CTA EB No. 1673 dated January 30, 2019)*

A HOLDING COMPANY IS NOT A NON-BANKING INTERMEDIARY WHICH IS COVERED BY THE TAXING POWER OF A LOCAL GOVERNMENT UNIT. Generally, the taxing power of a local government unit does not extend to income tax except on banks and other financial institutions. The financial intermediary's principal functions involve lending, investing or placement of funds or evidences of indebtedness or equity deposited to them and must perform any of its functions on a regular and recurring basis. A holding company is not covered under the definition of "non-banking financial intermediaries" under Section 4101.Q of Manual of Regulations for Non-Bank Financial institutions issued by the Banko Sentral ng Pilipinas.

Phil. Gold Processing and Refining Corp. v. CIR *(CTA EB No. 1645 dated January 31, 2019)*

FAILURE TO APPEAL THE "INACTION" OR "DEEMED A DENIAL DECISION" OF THE CIR WITH THE COURT EN BANC WITHIN 30 DAYS FROM LAPSE OF 120-DAY PERIOD SHALL RENDER THE "DEEMED A DENIAL DECISION" FINAL AND EXECUTORY.

CIR v. Northern Tobacco Redrying Co., Inc *(CTA EB No. 1664 dated January 31, 2019)*

SECURING A BIR RULING UNDER RR NO. 18-2001 IS NOT A CONDITION SINE QUA NON FOR THE AVAILMENT OF TAX EXEMPTION. The BIR ruling/certification required under RR No. 18-2001 is for determining gain or loss on a subsequent sale or disposition of property subject of the tax-free exchange, and not as a precondition for availment of a tax exemption.

CIR v. Trustmark Holdings Corporation *(CTA EB No. 1697 dated January 31, 2019)*

GOOD FAITH AND HONEST BELIEF THAT ONE IS NOT SUBJECT TO TAX ON THE BASIS OF PREVIOUS INTERPRETATIONS OF GOVERNMENT AGENCIES TASKED TO IMPLEMENT THE TAX LAW ARE SUFFICIENT JUSTIFICATION TO DELETE THE IMPOSITION OF SURCHARGES AND INTEREST

CIR v. Vestas Services Philippines, Inc. *(CTA EB No. 1955 dated February 6, 2019)*

A CLEARLY LEGIBLE DUPLICATE ORIGINAL OR CERTIFIED TRUE COPY OF THE DECISION APPEALED FROM SHOULD BE ATTACHED TO THE PETITION FOR REVIEW. FAILURE TO COMPLY SANCTIONS THE DISMISSAL OF THE PETITION.

CIR v. Coral Bay Nickel Corporation *(CTA EB No. 1652 dated February 6, 2019)*

THE WAIVER OF THE STATUTE OF LIMITATIONS MUST BE EXECUTED BEFORE THE EXPIRATION OF THE ORDINARY PRESCRIPTIVE PERIOD OF ASSESSMENT. Section 222(B) of the NIRC authorizes the taxpayer and the CIR to stipulate to extend the period of assessment by a written agreement executed prior to the lapse of the period prescribed by law, and may be extended by subsequent written agreements before the expiration of the period previously agreed upon.

Commissioner of Customs v. Philippine Airlines, Inc *(CTA EB No. 1731 dated February 7, 2019)*

THE NIRC DOES NOT REQUIRE THE CIR TO ACT UPON THE ADMINISTRATIVE CLAIM BEFORE CLAIMANT CAN FILE ITS JUDICIAL CLAIM FOR REFUND. The Court can act on a judicial claim for refund of erroneously or illegally collected internal revenue taxes even if the CIR failed to act on the taxpayer's administrative claim for refund as long as it complies with the requirements under Sections 204 (C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended. Section 229, as worded, only requires that an administrative claim be filed prior to the judicial claim.

De Andres v. Spouses Cristobal *(CTA EB No. 1701 dated February 7, 2019)*

LOCAL TAX CASES UNDER THE JURISDICTION OF THE CTA SHOULD BE ONE DIRECTED AGAINST THE LOCAL GOVERNMENT AS A PUBLIC RESPONDENT, AND NOT AGAINST A PRIVATE PARTY.

Hedcor, Inc. v. CIR *(CTA EB No. 1733 dated February 11, 2019)*

THE DATE OF THE SUBMISSION OF THE ADDITIONAL SUPPORTING DOCUMENTS FOR REFUND MUST BE WITHIN THE 2-YEAR PRESCRIPTIVE PERIOD.

INACTION, WHICH IS TANTAMOUNT TO DENIAL, BY THE CIR IN CASES INVOLVING REFUND ARISES AFTER THE LAPSE OF THE 120 DAY PERIOD. The receipt of a "Letter" issued by the CIR is not the decision contemplated by the law. In addition, the charter of the CTA expressly provides that if the commissioner fails to decide within the 120-day period, such action shall be deemed a denial and can take the claim for refund to the CTA for review. There is no option on the part of the taxpayer to wait the decision after the lapse of 120-day period.

CIR v. San Miguel Corporation; San Miguel Corporation v. CIR *(CTA EB No. 1724 & 1726 dated February 11, 2019)*

"GOOD FAITH RELIANCE" IS A SUFFICIENT JUSTIFICATION TO DELETE THE IMPOSITION OF SURCHARGE AND INTEREST. SMC is not liable for surcharge, interest and compromise penalty because good faith and honest belief that one is not subject to tax on the basis of previous interpretation of government agencies tasked to implement the tax laws are sufficient justification to delete the imposition of surcharges and interest.

CIR v. Erwin Casaclang *(CTA EB No. 1994 dated February 11, 2019)*

THE REQUIREMENTS FOR PERFECTING AN APPEAL WITHIN THE REGLEMENTARY PERIOD SPECIFIED IN THE LAW MUST BE STRICTLY FOLLOWED AS THEY ARE CONSIDERED INDISPENSABLE INTERDICTIONS AGAINST NEEDLESS DELAYS. MOREOVER, THE PERFECTION OF AN APPEAL IN THE MANNER AND WITHIN THE PERIOD SET BY LAW IS NOT ONLY MANDATORY BUT JURISDICTIONAL AS WELL, HENCE FAILURE TO PERFECT THE SAME RENDERS THE JUDGMENT FINAL AND EXECUTORY. While the CIR was able to append the registry receipt to the Motion to Admit Petition for Review, attaching therein the Petition for Review, he failed to submit an Affidavit of Service to prove proper service of the subject Petition for Review to the adverse party by registered mail. His failure to comply with the foregoing requirement shall be a sufficient ground for dismissal under Section 7, Rule 43 of the 1997 Rules of Civil Procedure.

COURT OF TAX APPEALS DECISIONS

Colt Commercial, Inc. v. CIR *(CTA EB No. 9270 dated January 16, 2019)*

NON-PRESENTATION OF THE EXPORT DOCUMENTS WARRANT THE DENIAL OF VAT ZERO-RATING OF THE TAXPAYER'S CLAIMED DIRECT EXPORT SALES.

Mckinsey & Co. (Phils.) v. CIR *(CTA Case No. 9332 dated January 17, 2019)*

THE CWT SOUGHT TO BE REFUNDED MUST BE REFLECTED IN THE ITR. Any amount in the supporting withholding tax certificates that exceeds the amount declared in the ITR cannot be allowed. This is pursuant to Sec. 76 of the NIRC.

REQUISITES IN ORDER THAT A CLAIM FOR REFUND OF CWT MAY BE GRANTED:

1. The claim for refund must be filed within the two-year prescriptive period as provided under Section 204(C) and 229 of the Tax Code, as amended;
2. The fact of withholding must be established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and
3. The income upon which the taxes were withheld must be included in the return of the recipient.

Advanced World Systems, Inc. vs. CIR *(CTA Case No. 9864 dated January 17, 2019)*

THE THIRTY-DAY PERIOD TO SUBMIT THE ADDITIONAL DOCUMENTS REQUESTED BY THE INVESTIGATING/PROCESSING OFFICE SHALL BE CONSTRUED AS WITHIN THE 120-DAY PERIOD TO FILE AN ADMINSTRATIVE PERIOD TO FILE A REFUND. The taxpayer-claimant is given 30 days within which to complete the required documents, unless

given further extension by the head of the processing unit. Notice, by way of a request from the tax collection authority to produce the complete documents in these cases, became essential. When the complete documents had been submitted, the 120-day period shall be reckoned from the date of filing.

IFC Capitalization(Equity) Fund LP v. CIR *(CTA Case No. 9148 dated January 17, 2019)*

REQUISITES FOR RECOVERY OF TAX THAT WAS ERRONEOUSLY OR ILLEGALLY COLLECTED

1. There must be an erroneous or illegal collection of tax, or a penalty collected without authority, or sum excessively or wrongfully collected;
2. The claim for refund has been duly filed with the Commissioner, within two (2) years after the payment of tax or penalty; and
3. The suit or proceeding is instituted with this Court within two (2) years from the date of payment of the tax or penalty.

Highland Gaming Corporation v. CIR *(CTA Case No. 9730 dated January 17, 2019)*

A FINAL DEMAND LETTER FROM THE BIR, REITERATING TO THE TAXPAYER THE IMMEDIATE PAYMENT OF A TAX DEFICIENCY ASSESSMENT PREVIOUSLY MADE, IS TANTAMOUNT TO A DENIAL OF THE TAXPAYER'S REQUEST FOR RECONSIDERATION. Such letter amounts to a final decision on a disputed assessment and is thus appealable to this Court.

People of the Philippines v. Rex Chua Co Ho *(CTA Crim cases Nos. O-287, O-288, O-289, O-290, and O-2dated January 17, 2019)*

DEDUCTIONS FOR INCOME TAX PURPOSES PARTAKE OF THE NATURE OF TAX EXEMPTIONS; HENCE, IF TAX EXEMPTIONS ARE STRICTLY CONTRUED, THEN DEDUCTIONSMUST ALSO BE STRICTLY CONSTRUED.

Trans-Asia Oil and Energy Development Corporation v. CIR *(CTA Case No. 9078 dated January 18, 2019)*

DECLARATION AND DISTRIBUTION OF PROPERTY DIVIDEND IS NOT WITHIN THE AMBIT OF THE TERM "OTHER DISPOSITION OF SHARES OF STOCK" THAT WOULD RECOGNIZE GAIN OR LOSS FROM SUCH DISPOSAL, AS CONTEMPLATED IN RR NO. 6-2008, AS AMENDED BY RR NO. 6-2013.

Hotel Specialist (Tagaytay), Inc. v. CIR *(CTA Case No 9349 dated January 18, 2019)*

SERVICE CHARGES COLLECTED BY HOTELS, RESTARUANTS AND OTHER SIMILAR ESTABLISHMENTS, EARMARKED AND SET ASIDE FOR PURPOSES OF DISTRIBUTING THE SAME TO THE EMPLOYEES SHOULD NOT BE SUBJECT TO VAT. Gross Receipts is limited to the amount that the taxpayer received for the services it performed or to the amount it received as advance payment for the services it will render in the future to another person. Accordingly, gross receipts do not include monies or receipts which do not redound to the benefit of the taxpayer.

THE CTA HAS NO JURISDICTION TO COMPEL THE TAXPAYER TO PAY THE COMPROMISE PENALTY. A compromise penalty is imposed to avoid prosecution for the violations of the Tax Code. It implies a mutual agreement between the parties. Absent a showing that the petitioner consented to the compromise penalty, it should not be imposed.

Ayala Property Management Corporation vs. CIR *(CTA Case No. 9298 dated January 21, 2019)*

UNVERIFIED THIRD PARTY INFORMATION USED BY THE REVENUE OFFICER TO ASSESS THE TAXPAYER IS INVALID IF NOT VERIFIED WITH EXTERNALLY SOURCED DATA TO CHECK ITS CORRECTNESS. Without the confirmation from third parties, the finding of the revenue office will cast doubt on the reliability and correctness of the alleged unaccounted income. RMO No. 04-03 also requires that the verification of the amounts reflected in the quarterly reports with other externally sourced data in ascertaining the taxpayer's underdeclaration of revenues or overstatement of costs and expenses, if any.

Unisphere International, Inc. v CIR *(CTA Case No. 8782 dated January 21, 2019)*

THE CIR MUST PROVE THAT THE RELEASE, MAILING OR SENDING OF THE FAN TO THE TAXPAYER. The facts to be proved that the FAN has been duly directed and mailed and deemed received in the regular course of mail are (a) that the letter was addressed with postage prepaid, and (b) that it was mailed.

ANAPI Multi-Purpose Cooperative *(CTA Case No. 9399 dated January 21, 2019)*

ABSENT SUFFICIENT EVIDENCE TO SUPPORT THE ASSESSMENT, THE PRESUMPTION OF CORRECTNESS NO LONGER APPLIES.

Enjay Hotels, Inc. v. CIR *(CTA Case No. 9273 dated January 24, 2019)*

THERE MUST BE A GRANT OF AUTHORITY BEFORE A REVENUE OFFICER CAN CONDUCT AN EXAMINATION OR ASSESSMENT. Any assessment made arising from the conduct of audit examination of a taxpayer's books of accounts by a BIR examiner who is not duly authorized to do so, is a complete nullity. Accordingly, only the persons named in the LOA are authorized to conduct the examination. A memorandum report or MOA do not grant authority to the examiners to continue or conduct the examination or assessment.

AIG Shared Services Corporation . CIR *(CTA AC No. 191 dated January 24, 2019)*

REQUISITES FOR THE ISSUANCE OF A TAX CREDIT CERTIFICATE OF INPUT VAT PAID:

1) the taxpayer is VAT registered;
2) the taxpayer is engaged in zero-rated or effectively zero-rated sales;
3) the input taxes are due or paid;
4) the input taxes are not transitional input taxes;
5) the input taxes have not been applied against output taxes during and in the succeeding quarters;
6) the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
7) for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with Bangko Sentral ng Pilipinas ("BSP") rules and regulations;
8) 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; and
9) the claim is filed within two years after close of taxable quarter when such sales were made.

First Balfour, Inc., vs CIR *(CTA Case No. 8984 dated January 25, 2019)*

IF THE TAXPAYER DENIES EVER HAVING RECEIVED AN ASSESSMENT FROM THE BIR, IT IS INCUMBENT UPON THE LATTER TO PROVE BY COMPETENT EVIDENCE THAT SUCH NOTICE WAS INDEED RECEIVED BY THE ADDRESSEE. The onus probandi was shifted to respondent to prove by contrary evidence that the Petitioner received the assessment in the due course of mail. The Supreme Court has consistency held that while a mailed letter is deemed received by the addressee in the course of mail, this is merely a disputable presumption subject to controversion and a direct denial thereof shifts the burden to the party favored by the presumption to prove that the mailed letter was indeed received by the addressee.

Metro Pacific Tollways Development Corporation v. Makati City, et.al. *(CTA AC No. 191 dated January 29, 2019)*

WHEN A NOTICE OF ASSESSMENT IS ISSUED BY THE LOCAL TREASURER AGAINST A TAXPAYER, AND THE TAXPAYER OPT TO PAY THE ASSESSED TAX, FEE, OR CHARGE, THE AMOUNT OF DEFICIENCY, THE SURCHARGES, INTERESTS AND PENALTIES, SUCH TAXPAYER MUST STILL FILE A WRITTEN PROTEST WITHIN THE 60-DAY PERIOD, AND THEN BRING THE CASE TO COURT TO QUESTION THE VALIDITY AND CORRECTNESS OF THE ASSESSMENT AND SEEK A REFUND OF THE TAXES PAID, WITHIN 30 DAYS FROM EITHER THE DECISION OR INACTION OF THE LOCAL

TREASURER, PURSUANT TO SECTION 195 OF THE LGC OF 1991. If, however, there is no notice of assessment issued by the Local Treasurer, and the taxpayer claims payment of illegally or erroneously collected taxes and intends the refund thereof, then Section 196 of the same LGC applies, without regard to the provisions of Section 195 of the same law.

Carmen Cooper Corporation v. CIR *(CTA Case No. 9124 & 9200 dated January 29, 2019)*

REQUISITES TO PROVE ZERO-RATED SALE OF GOODS TO PEZA-REGISTERED ENTITIES UNDER SECTION 106(A)(2)(A)(5) OF THE 1997 NATIONAL INTERNAL REVENUE CODE (NIRC), IN RELATION TO SEC. 4.106-S(C) OF RR NO. 16-05:
1) The sales invoice as proof of sale of goods;
2) Any proof of the buyer's entitlement to tax incentives under other special laws (i.e. Certificates of Registration with the PEZA pursuant to RA 7916, for the corresponding taxable year).

Manila Medical Services, Inc. v. CIR *(CTA Case No. 8867 dated January 30, 2019)*

CTA HAS THE JURISDICTION TO DETERMINE IF A WARRANT OF DISTRAINT AND LEVY ISSUED BY THE BIR IS VALID. In other words, the issue falls within the ambit of other matters arising under the NIRC or other laws administered by the BIR.

Toledo Power Company v. CIR *(CTA Case No. 8792 dated January 29, 2019)*

"CREDITABLE INPUT TAX DUE OR PAID ATTRIBUTABLE TO SUCH SALES" MEANS THAT THE INPUT TAX IS CONNECTED WITH THE ZERO-RATED OR EFFECTIVELY ZERO-RATED. The NIRC did not limit input taxes to those purchase that only form part of the finished product of the taxpayer. Sec. 112(A) of the NIRC, as amended, provides for the following scenarios:

1. Purely zero-rated or effectively zero-rates sales;
2. Engaged in both zero-rated or effectively zero-rated sales and in taxable or exempt sales and the creditable input tax due or paid can be attributed to each of the transactions; and
3. Engaged in both zero-rated or effectively zero-rated sales and in taxable or exempt sales but the creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions.

Manila Medical Services, Inc. v. CIR *(CTA Case No. 8907 dated January 30, 2019)*

THE REGISTRY RETURN CARD OR RECEIPT IS THE BEST EVIDENCE THE TAX EXAMINER CAN OFFER TO COUNTER THE TAXPAYER'S POSITION THAT IT DID NOT RECEIVE THE LETTERS OF ASSESSMENT.

Maxima Machineries Inc. v. CIR *(CTA Case No. 9210 dated January 30, 2019)*

IN CLAIMING EXCESS OR UNUTILIZED INPUT VAT FROM ZERO-RATED TRANSACTIONS, IT IS THE EXCESS OVER THE OUTPUT VAT WHICH SHOULD BE

REFUNDED TO THE TAXPAYER OR CREDITED AGAINST OTHER INTERNAL REVENUE TAXES. Hence, it is important for the taxpayer to prove that it has enough prior year's excess input vat credits to cover its output vat liability for the current taxable year.

Xylem Water Systems International, Inc. v. CIR *(CTA Case No. 8901 dated January 31, 2019)*

THE PERFECTION OF AN APPEAL IN THE MANNER AND WITHIN THE PERIOD LAID DOWN BY LAW IS NOT ONLY MANDATORY BUT ALSO JURISDICTIONAL. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, the Court declares that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.

Ayala International Inc. v. CIR *(CTA Case No. 9262 dated February 4, 2019)*
FACTS THAT MUST BE PRESENT IN THE EXECUTION OF THE WAIVER OF STATUTE OF LIMITATIONS:

a) the fact of notarization; and
b) in cases where the taxpayer is a corporation, the signatory of such notarized waiver/s must be authorized by its board of directors to execute the same via a corresponding board resolution. Such mandatory preconditions are wanting in this case.

Citco International Support Services Limited - Philippine ROHQ v. CIR *(CTA Case No. 9102 dated February 4, 2019)*

IN ORDER TO BE CONSIDERED AS A NON-RESIDENT FOREIGN CORPORATION DOING BUSINESS OUTSIDE THE PHILIPPINES, EACH ENTITY MUST BE SUPPORTED AT THE VERY LEAST, BY BOTH THE SEC CERTIFICATE OF NON-REGISTRATION OF CORPORATION/PARTNERSHIP AND THE CERTIFICATE/ ARTICLES OF FOREIGN INCORPORATION/ ASSOCIATION/REGISTRATION, AND THAT THERE IS NO OTHER INDICATION THAT THE RECIPIENT OF THE SERVICES IS DOING BUSINESS IN THE PHILIPPINES.

Northwind Power Development Corporation v. CIR *(CTA Case No. 9102 dated February 4, 2019)*

TWO SCENARIOS BEFORE A JUDICIAL CLAIM FOR REFUND MAY BE FILED WITH THE CTA:
(1) the full or partial denial of the claim within the 120-day period, or
(2) the lapse of the 120-day period without the CIR having acted on the claim.

It is only from the happening of either one may a taxpayer-claimant file its judicial claim for refund or tax credit for unutilized input VAT. Consequently, failure to observe the said period renders the judicial claim premature, divesting the CTA of jurisdiction to act on it.

Y & R Philippines, Inc. v. CIR *(CTA Case No. 9437 dated February 4, 2019)*

THE PAN AND FAN ARE VOID FOR BEING ISSUED PURSUANT ONLY TO A LETTER NOTICE AND WITHOUT ANY LOA. A LOA is necessary to proceed with the further examination and assessment of the taxpayer.

Ma. Carmela Locsin, et.al. v. CIR *(CTA Case No. 9094 dated February 4, 2019)*

THE REVOCATION/NULLIFICATION OF THE TAX EXEMPTION CANNOT BE APPLIED RETROACTIVELY TO THE PREJUDICE OF THE TAXPAYERS PURSUANT TO SECTION 246 OF THE NIRC. Rulings, circulars, rules and regulations promulgated by the CIR cannot have retroactive application if to so apply them would be prejudicial to taxpayers. Accordingly, RMC No. 31-2013 which provides for the taxability of the Filipino citizen employees of ADB should not be applied retroactively.

Financial Times Electronic Publishing Philippines, Inc. vs CIR *(CTA Case No. 9434 dated February 4, 2019)*

THE REQUISITES TO BE SATISFIED TO BE ENTITLED TO A REFUND OR TAX CREDIT OF INPUT TAX DUE OR PAID ATTRIBUTABLE TO ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES:

1. the taxpayer is VAT-registered;
2. the taxpayer is engaged in zero-rated or effectively zero-rated sales;
3. the input taxes are due or paid;
4. the input taxes are not transitional input taxes;
5. the input taxes have not been applied against output taxes during and in the succeeding quarters;
6. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales;
7. for zero-rated sales under Sections 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas;
8. 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; and
9. the claim is filed within two years after the close of the taxable quarter when such sales were made.

FOR THE SUPPLY OF SERVICES TO BE VAT ZERO-RATED UNDER SECTION 108(B)(2) OF THE NIRC OF 1997, AS AMENDED, THE FOLLOWING REQUISITES MUST BE MET:

1. the services must be other than processing, manufacturing or repacking of goods;
2. the recipient of such services must be doing business outside the Philippines; and
3. the payment for such services must acceptable foreign currency accounted accordance with the BSP rules regulations.

In relation to the second requisite, to be considered as a non-resident foreign corporation doing business outside of the Philippines, the entity must be supported, at the very least, by both SEC Certificate of non-registration of corporation/partnership and certificate/articles of foreign incorporation/association/registration.

Kurimoto (Philippines) Corporation v. CIR *(CTA Case No. 9211 dated February 6, 2019)*

A TAXPAYER ENGAGED IN ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES IS ENTITLED TO CLAIM FOR REFUND OR TAX CREDIT OF EXCESS INPUT TAX ATTRIBUTABLE TO SUCH SALES UPON COMPLIANCE WITH THE FOLLOWING REQUISITES:

1. The taxpayer-claimant must be VAT-registered;
2. There must be zero-rated or effectively zero-rated sales;
3. That input taxes were incurred or paid;
4. That such input taxes are attributable to zero-rated or effectively zero-rated sales;
5. That the input taxes were not applied against any output VAT liability during and in the succeeding quarters; and
6. The claim for refund was filed within the prescriptive period both in the administrative and judicial levels.

In relation to the second requisite, for the supply of the services to be VAT zero-rated the taxpayer must comply not only with Section 108(B)(2) of the NIRC but also with the invoicing requirements under Section 113.

SALES OF GOODS AND SERVICES MADE BY A VAT-REGISTERED PERSON IN THE PHILIPPINES CUSTOMS TERRITORY TO AN ENTITY REGISTERED AND OPERATING WITHIN THE ECOZONE ARE CONSIDERED EXPORTS TO A FOREIGN COUNTRY SUBJECT TO ZERO PERCENT VAT.

Tanduay Distillers, Inc. v. CIR *(CTA Case Nos. 9017 & 9035 dated February 8, 2019)*

ETHYL ACLOCHOL AND ETHANOL SHOULD NOT BE SUBJECT TO TAX UPON IMPORTATION OR REMOVAL FROM PLACE OF PRODUCTION, IF THEY WILL BE USED AS RAW MATERIALS IN THE PRODUCTION OF COMPUNDED LIQUORS. It is the clear legislative intent of R.A. No. 10351 that raw materials (such as ethyl alcohol) are not subject to tax since the excise tax on distilled spirits should be on the final product. Imposing tax on the raw materials and, later, on the finished products is double taxation. However, the importer must be

the manufacturer of the goods itself or the local seller is a duly registered distillery which delivers ethy alcohol or ethanol to the manufacturer of compounded liquors.

First Philippine Electric Corporation v. CIR *(CTA Case No. 9199 dated February 8, 2019)*

THE INVSTIGATING OFFICER CANNOT INCORPORATE NEW ASSESSMENTS ONLY IN THE FDDA. The same would be offensive to the basic rules of fair play, justice, and due process.

RMJR Grains Center Corporation v. Commissioner of Customs *(CTA Case Nos. 9156, 9157, 9158, 9159, and 9160 dated February 8, 2019)*

BETWEEN JULY 1, 2012 UNTIL JULY 24, 2014, NO SPECIAL TREATMENT OF RICE WAS IN PLACE UNDER TREATY, ACCORDINGLY, THERE WAS NO NEED TO SECURE IMPORT PERMITS FROM THE NFA TO IMPORT RICE.

Payo Manufacturing Corporation v. CIR *(CTA Case No. UDK-SP 027 dated February 8, 2019)*

FOR THE CTA TO ACQUIRE JURISDICTION OVER THE PETITION FOR REVIEW OR APPEAL, IT SHOULD BE COMMENCED WITHIN THE PRESCRIBED TIME WITH THE PAYMENT OF CORRECT DOCKET FEES.

Deutsche Knowledge Services Pte. Ltd. v. CIR *(CTA Case No. 9496 dated February 12, 2019)*

FOREIGN CURRENCY REMITTANCE UNDER SECTION 108(B)(2) MUST BE SUPPORTED BY VAT ZERO-RATED OFFICIAL RECEIPTS. This is pursuant to Sections 113(A)(2), (B)(1), (2)(c), and (3) of the NIRC as amended, as implemented by Sections 4.113-1(A)(2), (B)(1) and (2)(C) of RR No. 16-05 which provides that for every exchange of services, a VAT official receipt must be issued.

Asia United Leasing & Finance Corporation v. CIR *(CTA Case No. 8735 dated February 12, 2019)*

THE DST SHOULD NOT BE IMPOSED ON THE EMBEDDED INSTRUMENT AS IT IS MERELY AN INCOME TO BE DERIVED BY TAXPAYER IN EXCHANGE OF GRANTING CREDIT. A DST is imposed on every original issue of debt instruments and the tax thereon shall be based on the issue price only**.** The term "issue price" refer to the face value of the debt instrument, which pertains to the principal amount of indebtedness.

GOOD FAITH AND HONEST BELIEF THAT ONE IS NOT SUBJECT TO TAX ON THE BASIS OF PREVIOUS INTERPRETATION OF GOVERNMENT AGENCIES TASKET TO IMPLEMENT THE TAX LAW, ARE SUFFICIENT JUSTIFICATION TO DELETE THE IMPOSITION OF SURCHARGES AND INTEREST.

Benchmark Marketing Corp. v. CIR *(CTA Case No. 9224 dated February 12, 2019)*

MERE RELIANCE ON THE FACT THAT THERE WAS UNDER-DECLARED PURCHASES IS NOT ENOUGH BASIS FOR THE COURT TO UPHOLD THE CIR'S ASSESSMENT OF DEFICIENCY INCOME TAX. Findings that there are unaccounted purchases which resulted in undeclared income which would increase taxpayer's liability is not based on actual facts as mandated by the tax code.

Halliburton Worldwide Limited-Philippine Branch vs. CIR *(CTA Case No. 9449 dated February 14, 2019)*

BIR FORM 1600 IS INSUFFICIENT TO PROVE THE AMOUNT ACTUALLY REMITTED TO THE BIR TO CLAIM FOR REFUND OF VAT ATTRIBUTABLE TO ZERO-RATED SALES. The BIR Form 1600 must be supported by payment confirmation receipts.

THE QUESTION OF TAX DEFICIENCY IS DISTINCY AND UNDRELATED TO A TAXPAYER'S ENTITLEMENT FOR REFUND. To automatically "offset" the taxpayer's alleged tax liabilities against the claim for refund would be unfair as it would deprive the taxpayer to dispute the same in the proper venue.

REVENUE ISSUANCES

Revenue Regulations No. 1-2019 (08 February 2019)

Further amends certain provisions of RR No. 2-98 as amended by RR No. 11-2018, which implemented the provisions of RA No. 10963 (TRAIN Law), relative to some changes in the rate of Creditable Withholding Tax on certain income payments

Section 2 of RR No. 11-2018 on the amendments to Section 2.57.2 of RR 2-98, as amended, is hereby further amended to read as follows:

"SECTION 2.57.2. Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon. – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rate herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:

(A) xxx

(P) MERALCO Payments on the following:

(1) MERALCO Refund arising from Supreme Court Case G.R. No. 141314 of April 9, 2003 to customers under Phase lV as approved by Energy Regulatory Board (ERC)- on gross amount of refund given by MERALCO to customers - Fifteen percent (15%)

(2) interest income on the refund of meter deposits determined, computed and paid in accordance with the "Rules to Govern Refund of Meter Deposits to Residential and Non-Residential Customers", as approved by the ERC under Resolution No, 8, Series of 2008, dated June 04, 2008 implementing Article 8 of the Magna Carta for Residential Electricity Customers and ERC resolution No, 2005-10 RM (Otherwise known as

DSOAR) dated January 18, 2006, exempting all electricity consumers from the payment of meter deposit.

On gross amount of interest paid directly to the customers or applied against the customer's billings:

(i) Residential and General Service customers whose monthly electricity exceeds 200 kwh as classified by MERALCO - Ten percent (10%)

(ii) Non-Residential Customers - Fifteen percent (L5%)

(Q) Interest income on the refund paid through direct payment or application against customer's billings by other electric Distribution Utilities (DUs) in accordance with the rules embodied in ERC Resolution No. 8, Series of 2008, dated June 04, 2008, governing the refund of meter deposits which was approved and adopted by ERC in compliance with the mandate of Article 8 of the Magna Carta for Residential Electricity Customers and Article 3.4.2 of DSOAR, exempting all electricity consumers, whether residential or nonresidential, from the payment of meter deposit.

On gross amount of interest paid directly to the customer or applied against the customer's billings:

(i) Residential and General Service customers whose monthly electricity consumption exceeds 200 kwh as classified by the concerned DU -Ten percent (10%)

(ii) Non-Residentlal Customers - Fifteen percent (15%)

(R) xxx

(S) lnterest income derived from any other debt instruments not within the coverage of 'deposit substitutes' and Revenue Regulations No. L4-2012, unless otherwise provided by law or regulations - Fifteen percent (15%).”

Revenue Memorandum Order No. 10-2019 (12 February 2019)

Provides the legal basis, policies, guidelines and procedures relative to the grant of Value-Added Tax (VAT) privileges to resident foreign missions (which refers to foreign embassies and consulates in the Philippines), their qualified personnel and the latter’s qualified dependent/s.

Under the principle of reciprocity, the BIR may grant VAT privileges to a resident foreign mission, its qualified personnel and dependent/s of the latter on their local purchase of goods and/or services, subject to a categorical confirmation from the Office of Protocol of the Department of Foreign Affairs (DFA-OP) that the foreign government accords the same VAT privileges to the Philippine Foreign Service Posts (PFSPs) and its personnel on their purchase of goods and services in the concerned foreign country.

Based on the principle of reciprocity, a resident foreign mission, its qualified personnel and the latter's dependent/s may be accorded VAT exemption on their purchase of goods and/or services either at POINT-OF-SALE or on REFUND/REIMBURSEMENT BASIS. The method of granting VAT exemption highly depends on the VAT privilege being accorded to our PFSPs by the different tax jurisdictions abroad, which is regularly monitored by the DFA-OP.

The updated list of countries/jurisdictions that grant PFSPs and their members VAT privileges on their purchase of goods and services is provided by the DFA-OP. The list and DFA-OP's endorsement on the tax privileges being enjoyed by all the country; PFSPs abroad shall serve as a guide for the International Tax Affairs Division (ITAD) of the BIR in determining whether or not the applicant is entitled to VAT privileges and therefore, should be issued a ruling, certificate, and/or card, as the case may be.

A resident foreign mission and its members, categorically endorsed by the DFAOP, are entitled to the grant of VAT exemption at POINT-OF-SALE and will be issued with a VAT Certificate (VC, the new name of VAT Exemption Certificate). A VAT Identification Card (VIC, formerly called VAT Exemption Identification Card), may be issued to qualified personnel and their qualified dependent/s, in lieu of a VC, subject to certain additional procedures in the production thereof.

When a resident foreign mission or its qualified personnel is issued with a VC, the sellers cannot pass on any VAT to them on their official (for the foreign mission) or personal (for personnel) purchase of goods and services in the Philippines since such purchases qualify for zero rating under the Tax Code, as amended by Republic Act No. 10963 (TRAIN Act).

The VC/VIC, however, cannot be used for the purpose of securing zero-rated VAT and/or Ad Valorem Tax exemption on local purchase of motor vehicle. The procedure for the processing and issuance of BIR Ruling for the local purchase of motor vehicle by resident foreign missions and its qualified personnel is prescribed in the Order.

When a foreign mission and its members are categorically endorsed by the DFAOP as entitled to the grant of VAT exemption thru Reimbursement or Refund, the BIR will issue a Ruling to confirm that they are entitled to reimbursement/refund of VAT paid on purchase of goods and services in the Philippines. The duly issued BIR Ruling shall be the basis for the VAT reimbursement/refund applications and shall be attached to the claim for reimbursement/refund to be processed by the appropriate Revenue District Office (RDO) that has jurisdiction over the foreign mission.

The BIR ITAD shall furnish the RDO a copy of all issued BIR Rulings every end of the semester (i.e. June and January), and shall, from time to time, provide the RDO with an updated list of foreign missions which may be granted VAT reimbursement/refund on the basis of reciprocity.

Upon receipt of the BIR Ruling confirming VAT exemption, the resident foreign mission, its qualified personnel or latter's dependent/s may proceed to secure reimbursement/refund of VAT paid within two (2) years after the close of the taxable quarter when the sales were made,

following the procedure provided under Section 112(A) of the Tax Code and Revenue Memorandum Circular (RMC) No. 54-2014, as amended.

A qualified foreign mission shall be issued one (1) VC. A qualified personnel of a foreign mission and the qualified dependent/s of the latter (i.e. spouse, and in some cases, child/children) shall be issued separate VCs/VICs. The initially issued VC/VIC shall, in general, be effective for two (2) years, renewable every two (2) years thereafter, or until the expiration of the term of office of the qualified personnel of a foreign mission, unless sooner cancelled, revoked or suspended for a valid cause.

A valid VC shall bear the signature of the Assistant Commissioner (ACIR) or the Head Revenue Executive Assistant (HREA) of the Legal Service (LS) of the Bureau of Internal Revenue duly authorized by the Commissioner of Internal Revenue for this purpose, and the official seal of the Office. Any alteration/erasure shall render the VC/VIC void.

Some VCs/VICs provide for certain conditions and limitations (e.g. goods or services not covered or a minimum amount of purchase per invoice) on the grant of VAT exemption. The sellers are, therefore, advised to strictly abide by such limitations before granting tax exemption at the point-of-sale.

Request for the renewal of a VC/VIC shall be filed not later than two (2) months before the date of expiration of the previously issued VC/VIC, following the same procedure as the first issuance. DFA-OP shall determine if VAT exemption at point-of sale may still be granted to the concerned foreign mission/qualified personnel/personnel's dependent/s. If still entitled, the DFA-OP shall endorse the request to the BIR-ITAD for processing.

The VC issued in favor of resident foreign missions shall be valid within two (2) years from the date of issue. The VC/VIC issued to the qualified personnel of the foreign mission and their dependents shall likewise be valid within two (2) years from the date of issue. However, if the mission personnel are relieved of duty in the Philippines prior to the expiration of the VC/VIC, they shall surrender immediately the VC/VIC issued to them and to their dependents to BIR-ITAD, thru the Resident Foreign Mission and the DFAOP, for cancellation.

In the event of suspension/cancellation of VAT exemption privilege given to PFSPs at the home country of the concerned foreign mission, DFA-OP shall inform BIR-ITAD and provide a copy of the foreign legislation/letter of the PFSP that serves as basis for such suspension. Considering that the grant of VAT privileges is based on the principle of reciprocity, BIR-ITAD shall likewise suspend/cancel the VAT exemption granted to the resident foreign mission, its personnel and latter's dependent/s. In the same manner, the DFA-OP shall inform BIR-ITAD and the foreign mission concerned of the resumption of VAT exemption privilege and shall provide the basis thereof.

DFA-OP shall retrieve the VC/VIC from the concerned foreign mission and/or its personnel in cases of suspension/cancellation of VAT exemption privilege, and relief from duty of embassy

personnel before the expiration of the VC/VIC, and forward the same to BIR-ITAD for safekeeping. BIR-ITAD shall re-issue the VC/VIC in its custody to the concerned foreign mission/qualified foreign mission personnel/qualified dependents upon proper advise of the DFA-OP.

The resident foreign mission of the lost/destroyed VC/VIC shall file a request for the issuance of a replacement copy, together with a duly notarized affidavit relating the circumstances attendant to the loss or destruction of VC/VIC, with the DFA-OP for endorsement to the BIR-ITAD. If the lost VC/VIC belongs to a dependent, a photocopy of the VC/VIC of the qualified personnel of the foreign mission shall also be attached.

BIR-ITAD shall issue a replacement copy of the VC/VIC based on the endorsement of the DFA-OP. Lost VC/VIC subsequently found should be surrendered to BIR-ITAD for cancellation.

Upon the effectivity of this Order, all holders of a valid and current VC/VIC may still continue to use the same until the end of the validity period.