TMAP TAX UPDATES

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COURT OF TAX APPEALS DECISIONS

CTA has no jurisdiction over PSALM's disputed deficiency VAT assessment

Commissioner of Internal Revenue v. Power Sector Assets and Liabilities Management Corporation & Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue, CTA EB Case Nos. 1618 and 1619, October 1, 2018

The Supreme Court, in its recent pronouncement in the case of *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue,* G.R. No. 198146, August 8, 2017, involving the same parties, categorically ruled that in disputes and claims solely between government agencies and offices, including government-owned or controlled corporations (GOCCs), the administrative procedure in Sections 2 and 3 of Presidential Decree (P.D.) No. 242 ("*Prescribing the Procedure for Administrative Settlement or Adjudication of Disputes, Claims and Controversies Between or Among Government Offices, Agencies and Instrumentalities, including Government-Owned or Controlled Corporations, and for other purposes*") should be followed.

The instant case between PSALM Corporation, a GOCC and the BIR, a government bureau, involving the disputed deficiency VAT assessment on PSALM Corporation's proceeds from privatization of Napocor assets, is within the jurisdiction of the Department of Justice (DOJ) through the Secretary of Justice, and the CTA is bereft of jurisdiction to take cognizance of the case.

BSP is not entitled to refund of RPT paid by its predecessor-in-interest which is a taxable private entity

Bangko Sentral ng Pilipinas (BSP) v. The Central Board of Assessment Appeals, The Local Board of Assessment Appeals of the Province of Batangas and Fortunata G. Lat in her capacity as the Provincial Treasurer of Batangas, CTA EB Case No. 1438, October 1, 2018

Section 234(a) of the Local Government Code (LGC) spares from the imposition of real property tax (RPT) real properties owned by the Republic of the Philippines or any of its political subdivisions, except when the State or any of its political subdivisions grants the beneficial use thereof to a taxable or private person, in which case the RPT shall be borne by the latter. The RPT attaches to the property and is chargeable against the taxable person who has actual or beneficial use and possession of it regardless of whether or not he is the owner thereof.

In order for the exemption of a government instrumentality (i.e. BSP) from RPT to arise, two (2) conditions must concur: 1) the claimant should be a government instrumentality; and 2) the claimant-government instrumentality must retain possession of the real property at the time of imposition of the RPT. While the first

condition was satisfied, the second was not. *Jus possidendi* of the real properties remained with the taxable private entities (predecessors–in-interest of the BSP) at the precise moment that respondent Provincial Treasurer subjected them to RPT. Such real properties therefore are not excused from the imposition of RPT. The RPT having been paid correctly and legally on the subject real properties for years covering 2004-2008, no refund shall be forthcoming in favor of the BSP.

Sales made by a generation company prior to issuance of the certificate of compliance (COC) from the Energy Regulations Commission (ERC) are not entitled to 0% VAT

Hedcor Simbulan, Inc. (Hedcor) v. Commissioner of Internal Revenue and Commissioner of Internal Revenue v. Hedcor Simbulan, Inc., CTA EB Case Nos. 1641 and 1643, September 19, 2018

During the 1st quarter of 2010, covering the months of January to March 2010, the taxpayer's power plants had not been issued their COCs which were issued on May 24, 2010 and August 9, 2010. Applying the ruling in the *Toledo* case (G.R. No. 196415, December 2, 2015), the sales for the 1st quarter of 2010 were consummated prior to the issuance of the COCs and did not qualify for zero-rating, and therefore the taxpayer would not be entitled to the refund of input VAT attributable to said sales. Although the COCs were eventually issued, the privilege of VAT zero-rating did not retroact to cover the 1st quarter of 2010. What was significant was the period when the alleged zero-rated sales were made, and not the period when the input tax was paid.

Errors in taxpayer's name or TIN as stated in the CWT Certificates may be fatal to a taxpayer's petition for refund

McKinsey & Co. (Phils.) (McKinsey) v. Commissioner of Internal Revenue and Commissioner of Internal Revenue v. McKinsey & Co. (Phils.), CTA EB Case Nos. 1588 and 1592, October 2, 2018

It is true that upon presentation of a withholding tax certificate (BIR Form No. 2307) ("CWT Certificate") complete in its relevant details and with a written statement that it was made under the penalties of perjury, the burden of evidence then shifts to the Commissioner of Internal Revenue to prove that (1) the certificate was not complete; (2) it was false; or (3) it was not issued regularly. However, while the taxpayer was able to prove that it was entitled to refund, the entire amount covered by its CWT Certificates cannot entirely be refunded in favor of McKinsey as some of the CWT Certificates were issued to *McKinsey Phils., Inc.* and not to *McKinsey & Co. (Phils.),* the registered name of the taxpayer-claimant per its Securities and Exchange Commission (SEC) Registration and BIR Certificate of Registration. In other words, the CWT Certificates issued to McKinsey Phils., Inc. were deemed issued to another entity and must be disallowed. The CWT Certificates bearing a different TIN, not that of McKinsey & Co. (Phils.) should also be deemed not belonging to the latter, thus, must also be disallowed.

The CTA has jurisdiction to pass upon the constitutionality or validity of a tax law, regulation or issuance when raised by the taxpayer as a defense in disputing an assessment or in claiming a refund

San Miguel Brewery, Inc. v. Commissioner of Internal Revenue, CTA EB Case No. 1772, September 19, 2018

Judicial review of official acts on the ground of unconstitutionality may be sought or availed of through any of the actions cognizable by courts of justice, not necessarily in suits for declaratory relief, criminal actions or in ordinary actions. The constitutional issue, however, (a) must be properly raised and presented in the case, and (b) its resolution is necessary to a determination of the case, *i.e.*, the issue of constitutionality must be the very *lis mota* presented.

The validity and/or constitutionality of RMC No. 90-2012 is the *lis mota* of herein taxpayer's judicial claim for refund. Taxpayer filed the judicial claim for refund to compel the CIR to refund the amount representing the difference between the amount of excise tax computed based on the rates provided under RMC No. 90-2012 and those under Section 143 of the Tax Code as amended. Taxpayer's thesis is that an administrative issuance that is contrary to the provisions of law and/or the Constitution has no legal effect, and correspondingly, the amount of taxes already paid pursuant to an invalid and/or unconstitutional revenue issuance should be refunded. Thus, the issue of validity and/or constitutionality of RMC No. 90-2012 is inextricably linked to the issue of whether the taxpayer is entitled to the refund of the amount claimed because it is the declaration of invalidity and/or unconstitutionality of RMC No. 90-2012 which will essentially trigger the refund.

An assessment precipitated by a mere Tax Verification Notice (TVN) instead of a valid Letter of Authority is null and void

Willore Pharma Corporation v. Commissioner of Internal Revenue, CTA EB Case No. 1577, October 9, 2018

Since the revenue officer (RO) who conducted the examination was not validly authorized to do so by virtue of an LOA signed by the CIR or the Regional Director, the subject tax assessment or examination is a nullity. It follows that the Formal Letter of Demand (FLD) as well as the Preliminary Collection Notice issued by the BIR to the taxpayer in this case are void and should be cancelled.

A "Re-Assignment Notice" cannot be a source of authority for a revenue officer to examine the books of accounts and accounting records of a taxpayer and an assessment issued pursuant thereto is

void

Nanox Philippines, Inc. v. Commissioner of Internal Revenue, CTA EB Case No. 1629, October 11, 2018

Through an undated *Re-Assignment Notice* a new RO was "authorized" to continue the examination of the taxpayer's books and accounting records instead of the RO who was originally authorized under the subject LOA. The new RO cannot be considered as validly authorized to examine petitioner's books of accounts and other accounting records because his authority to examine did not spring from, or was not made pursuant to, the LOA. The issuance of the said *Re-Assignment Notice* is inconsequential, since it is not an LOA.

Revenue Memorandum Order (RMO) No. 12-2007 (whose effectivity is extended under RMO No. 20-08) provides, in part, that "the practice of issuing mission orders, correspondence letters, referral memoranda or any other similar orders for the purpose of audit examination and assessment of internal revenue taxes is hereby strictly prohibited."

Income derived by the taxpayer which has no other business activity but licensing of trademarks and intellectual property rights will be considered ordinary income (not passive income) subject to the regular corporate tax, not to the 20% final withholding tax on royalties

Iconic Beverages, Inc. v. Commissioner of Internal Revenue & Commissioner of Internal Revenue v. Iconic Beverages, Inc., CTA EB Case Nos. 1563 and 1564, September 18, 2018

Royalty income will not be considered as passive income if the income is directly related to whether the income is generated in the active pursuit and performance of the corporation's primary purpose. While the stated main line of business of the taxpayer is "the manufacturing, buying, selling, and otherwise dealing in alcoholic and non-alcoholic beverages", it was also shown that (i) the taxpayer has no operating expenses for its alleged main trade or business of manufacturing, buying, selling (on wholesale) and dealing in alcoholic and non-alcoholic beverages; (ii) the taxpayer has no source of income for both 2009 and 2010 other than its royalty income and a minimal amount of interest income; and (iii) the amount of cash flows from its operating activities consists only of income from its royalty and interest income.

In view of the foregoing, the Court concluded that the taxpayer's income from licensing of its intellectual property rights is income generated in the active pursuit and performance of its primary purpose, thus, is not passive income, subject to regular corporate income tax.

Interest income earned from loans/advances granted by a taxpayer to its affiliate is considered income incidental to the taxpayer's property leasing business, and deemed a transaction "in the course of trade or business" subject to VAT

Underdeclaration by the taxpayer of its gross receipts to an extent exceeding 30% of that declared in its quarterly VAT return constitutes "filing of false return" warranting the application of the 10-year prescriptive period of assessment

McDonald's Philippines Realty Corporation v. Commissioner of Internal Revenue, CTA EB Case No. 1638, October 11, 2018

The proceeds of the loan were used by the borrower (an affiliate of the lender-taxpayer) to purchase real properties located in the Philippines. The loan granted by the taxpayer to its affiliate was in pursuit of its property leasing business. Hence, the interest income it derived from the loan, being incidental to its leasing business, is deemed a transaction *"in the course of trade or business"* subject to VAT pursuant to Section 105, in relation to Section 108(A), of the 1997 Tax Code as amended.

In this case, the taxpayer's failure to report rental/interest income in an amount exceeding 30% of the declared gross receipts in its quarterly VAT return is an underdeclaration that rendered its VAT return false or fraudulent.

There are three instances when the three-year prescriptive period does not apply, namely: ***(1) filing a false return, (2) filing a fraudulent return with intent to evade tax, and (3) failure to file a return.*** In all these instances, the period within which to assess deficiency taxes is ten (10) years from discovery of the fraud, falsification or omission.

The taxpayer committed falsity in its quarterly VAT return as it did not declare substantial receipts from its interest income. While the under declaration in the taxpayer's gross receipts did not arise from a deliberate attempt to evade tax, nonetheless, its deviation from the truth warrants the application of the ten (10)-year prescriptive period for assessment.

DST may be imposed on inter-company cash advances appearing in the Notes to Audited Financial Statements of the taxpayer

Commissioner of Internal Revenue v. San Miguel Corp., CTA EB Case No. 1724, October 11, 2018

A DST is a tax on documents, instruments, loan agreements, and papers evidencing the acceptance, assignment, sale or transfer of an obligation, right or property incident thereto. The DST is actually an excise tax, **because**

it is imposed on the transaction rather than on the document. Thus, even while the subject document was not shown or no debt instrument was identified by the BIR, DST may still be imposed, so long as the transactions are clearly established.

The taxpayer in this case relied on a 2008 BIR ruling which stated that intercompany loans and advances covered by inter-office memoranda are not subject to DST. While reliance on said BIR Ruling may not be invoked to extricate the taxpayer from its DST liability, it may nevertheless be used as basis of good faith on the part of the taxpayer sufficient to negate the latter's liability for **surcharge and interest**. 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 (e.g. BIR) are sufficient justification to delete the imposition of surcharges and interest.

Sale of services by an ecozone or freeport enterprise within the Customs Territory (or outside of the freeport zone) is subject to the regular income tax and VAT under the Tax Code, and not to the 5% tax on Gross Income in lieu of all taxes, notwithstanding that its sales outside of the free port zone did not exceed the 30% threshold

Clark Water Corporation v. Commissioner of Internal Revenue, CTA EB Case No. 1608, October 5, 2018

DOF Department Order No. 003-08 states: (i) If the ecozone or free port enterprise wants to avail of the incentives under the 5% special tax regime, it may generate income from sources outside the ecozone or freeport zone or within the customs territory of up to thirty percent (30%) of its total income from all sources; and (ii) If the income of an ecozone or freeport enterprise exceeds said thirty percent (30%) threshold, then all of its income whether from the zone or the customs territory shall be subject to the relevant internal revenue taxes under the National Internal Revenue Code of 1997, as amended.

The above provisions should not be applied in isolation, but rather applied in harmony with the other provisions of the said DOF Department Order No. 03-08 which state that the gross income, which is the basis of the 5% special rate, refers to gross sales or gross revenue **derived from business activities within the subject ecozone or freeport.**

It is true that the sales of services within the customs territory of the taxpayer for the calendar year amounted to only 7.65% of its total sales. However, considering that the sale of services were derived in the customs territory, these sales should not be included in the computation of the special 5% tax on Gross

Income Earned, in lieu of national and local taxes, and the CIR is correct in imposing the relevant internal revenue taxes under the National Internal Revenue Code of 1997, as amended.

Regarding the assessment of deficiency VAT on the said sales, it was ruled that if the services were performed or rendered outside the freeport zone or within the custom's territory, such sale of services are considered as technical importations, thus subject to 12% VAT.

The conveyance by a liquidating corporation of its property as liquidating dividend in favor of its stockholder is not a sale or exchange subject to capital gains tax

Commissioner of Internal Revenue v. Belle Corporation, CTA EB Case No. 1684, October 10, 2018

On the part of the stockholder, any gain or loss is subject to tax, while on the part of the liquidating corporation, no tax is imposed on its receipt of the shares surrendered by the stockholder or transfer of assets to said stockholder because said transaction is not treated as a sale. Such being the case, no capital gains tax may be imposed on the transfer by the liquidating corporation to its stockholder of its assets as liquidating dividend.

A decision of the Regional Trial Court (RTC) denying a petition relating to the implementation of an ordinance imposing a regulatory fee does not partake of the nature of a "revenue or tax measure" appealable to the CTA

Smart Communications, Inc. v. The Municipality of Jones, Isabela, represented by the Hon. Municipal Mayor Leticia T. Sebastian and Municipal Treasurer Abelardo Salvador, CTA EB Case No. 1671,October 8, 2018

In this case the subject matter of the case was neither disputing an assessment nor claiming for refund but asking for a TRO and prohibiting a local government unit (LGU) from collecting the annual tower fee embodied in the assailed municipal ordinance. The proper appellate procedure is outlined in Section 187 of the 1991 Local Government Code (LGC) which is to appeal before the Secretary of Justice. The subject matter of the decision of the lower court is not a revenue or tax measure but the implementation by an LGU of an ordinance in its exercise of police power.

An order of the RTC restraining the collection of business tax is a "local tax case" appealable to the CTA

The City Government of Makati, The City Treasurer of Makati, and the Officer-in-Charge of the Office of the City Administrator and Head of Business Permits Office v. Honorable Regional Trial Court, Makati City, Branch 59 and Mactel Corporation, CTA EB Case No. 1465, October 9, 2018

Under Republic Act (RA) No. 1125 as amended, the CTA in Division has jurisdiction over decisions, resolutions or orders of the Regional Trial Courts (RTCs) in ***local tax cases*** decided or resolved by them in the exercise of their original jurisdiction. In the Order of the RTC subject of this case, the LGU was enjoined to desist and refrain from further proceeding with the assessment of local business tax of the taxpayer and to issue a temporary business permit in favor of the taxpayer. The LGU insisted that such Order is not in the nature of a local tax case because the main issue was whether the application for TRO and/or Preliminary Injunction was proper. The CTA en banc held that in praying to restrain the collection of the business tax, the taxpayer is also implicitly questioning the propriety of the assessment of a local business tax, which makes the subject matter of the restraining order issued by the RTC a "local tax case" within the jurisdiction of the CTA.

A letter of the CIR stating that the alleged deficiency taxes will proceed via "administrative summary remedies" should taxpayer fail to pay the deficiency taxes within ten days, shall be considered a final decision on disputed assessment

Commissioner of Internal Revenue v. Bloat and Ogle, Inc., CTA EB Case No. 1578, September 18, 2018

The statement in the letter that the collection of the alleged deficiency taxes will proceed via "administrative summary remedies" should taxpayer fail to pay the deficiency taxes within ten days from receipt of said letter, is a clear denial of the protest filed by the taxpayer because it no longer opens the avenue for reconsideration of the findings of the revenue examiner regarding the alleged tax deficiencies of the taxpayer. Such letter shall be considered as the FDDA, the final decision appealable to the CTA. (However, in this case the PAN was never received by the taxpayer, thus the court also held that the FLD and the FANs that were issued to taxpayer were rendered void).

In spite of the variety of Supreme Court decisions on what may be treated as a final decision appealable to the CTA, the unifying rule is that **there must be finality in the tenor of the language which should be communicated unequivocally to the taxpayer**. In short, the taxpayer must be made aware, in no uncertain terms, that its

protest has been denied giving the impression that recourse to the courts becomes a necessity.

Once a taxpayer denies receipt of the assessment notice, it will be incumbent on the CIR to establish proof of actual receipt of said notice; a Final Letter of Demand (FLD) which does not contain a fixed and definite amount of tax to be paid is not valid

Yusen Logistics Center, Inc. v. Commissioner of Internal Revenue, CTA Case No. 9109, October 2, 2018

Ordinarily it is *presumed* that the taxpayer received the FAN/FLD in the ordinary course of mail. But since the taxpayer denied the same, it was incumbent upon the CIR to establish proof of *actual* receipt of said assessment notices. While it may appear through the pertinent Registry Receipt and Certification adduced by the CIR that the notices were respectively received by a certain "S/G Javier" and "S/G Jadiel," there is nothing in the record that indicates that said individuals *were duly authorized* to receive important correspondences in behalf of the taxpayer. The fact of mailing must be proved by the registry receipt issued by the Bureau of Posts or Registry return receipt signed by petitioner or its authorized representative. Failure on the part of respondent to establish that the FAN/FLD was actually received by the taxpayer is fatal and amounts to no assessment at all. As such, it cannot bind the taxpayer and may not be utilized as a foundation of a valid collection against it.

In addition, while the FLD states a computation of the taxpayer's purported tax liabilities, the amount remains indefinite as the tax due and interest thereon is still "subject to adjustment" depending on the actual date of payment. The CIR's assessment is virtually hinged upon the period when the taxpayer decides to account for its alleged tax obligation in favor of the government. The FLD therefore does not contain a fixed and definite amount of tax to be paid, rendering it legally infirm. Consequently, the Court is left with no other recourse but to invalidate the same.

In the absence of a specific tax exemption, salaries and emoluments received by Filipino employees of the Asian Development Bank (ADB) are subject to income tax

Leah Empesando, et al. v. Commissioner of Internal Revenue, CTA Case No. 9093, September 17, 2018

The ADB Charter provides a tax exemption provision with respect to the salaries and emoluments paid by the ADB to its officers and employees, but the same also contains a proviso wherein a member-country, like the Philippines, may opt to retain its right to tax the salaries and emoluments paid by the ADB to its citizens or nationals. If the Philippine Government intended to exempt the salaries or

emoluments that its citizens or nationals would receive from the ADB from income tax, a full ratification of the ADB Charter could have been made, without retaining its right to tax its citizens or nationals. Sections 23 (A) and 24 (A) (1) (a) of the Tax Code of 1997, as amended, a subsequent legislation, leave no room for doubt that resident citizens are subject to tax on income derived from all sources within and without the Philippines.

Nevertheless, on April 12, 2013, CIR issued Revenue Memorandum Circular No. 31-2013 (RMC No. 31-13) entitled "*Guidelines on the Taxation of Compensation Income of Philippine Nationals and Alien Individuals Employed by Foreign Governments/Embassies/Diplomatic Missions and International Organizations Situated in the Philippines*". The RMC sought to enforce its provisions subjecting compensation income of resident citizens employed by ADB to the graduated income tax rates immediately. Petitioners were constrained to file their Income Tax Return for 2012 and pay their deficiency tax liabilities in one payment. While the Filipino employees of ADB (prior to the issuance of RMC No. 31-13) were of the belief that their income was not subjected to tax, they now had to come up a substantial amount in order to settle their income tax liability. Hence, it would be in keeping with justice and equity for the implementation of RMC No. 31-13 to begin prospectively and apply to compensation income earned by said employees beginning taxable year 2013.

Hence, compensation income of resident citizens employed by foreign governments and/or international organizations (including ADB) shall only be subject to income tax beginning taxable year 2013, while the income payments received by them prior to taxable year 2013 shall be refunded.

An assessment arising from the conduct of audit examination by a revenue officer who is not duly authorized is void

Orient Overseas Container Line Ltd., represented by OOCL (Philippines), Inc. v. Commissioner of Internal Revenue, CTA Case No. 9179, October 4, 2018

Based on the documentary evidence duly presented, the revenue officers named in the Letter of Authority (LOA) were different from those who actually examined the taxpayer's books of accounts and other accounting records. As the revenue officers who actually conducted the audit were not named in the said LOA, they cannot derive their authority therefrom. It was also established that these revenue officers conducted the audit on the basis of a "Memorandum of Assignment" issued by a revenue official who had no power whatsoever to authorize the examination of taxpayers for assessment purposes or to effect any modification or amendment of a previously issued LOA. Only the CIR or his duly authorized representatives have that power as mandated by Sections 6, 7, 10 and 13 of the Tax Code as amended. An OIC-Chief of LTS-RLTAD II is not one of the CIR's duly authorized representatives who can validly assign revenue officers to conduct an audit examination.

While the lack of authority of the revenue officers to conduct the audit was not specifically raised as an issue, the CTA is not precluded from taking cognizance of and rendering a ruling on the same (*Commissioner of Internal Revenue v. Lancaster Philippines, Inc.,* G.R. No. 183408, July 12, 2017).

Declaration and distribution of property dividend may not be considered "disposition of shares of stock held as capital asset" subject to donor's tax

Trans-Asia Oil and Energy Development Corp. v. Commissioner of Internal Revenue, CTA Case No. 9078, September 28, 2018

In this case the CIR subjected to donor's tax the difference between the fair market value of the shares of stock declared as property dividend (based on "adjusted net asset value" in accordance with RR No. 6-2008, as amended by RR No. 6-2013), and the book value/par value of the said shares. It was assumed by the CIR that (i) the corporation declaring the property dividend (the taxpayer) realized a gain from the declaration and distribution to its shareholders of its shares of stock in a subsidiary, and (ii) the declaration and distribution of the said stocks were tantamount to a disposal of shares of stock not traded through a local stock exchange.

The CTA ruled that dividends are distributions whether in cash or other property made by a domestic or resident corporation to its stockholders out of its earnings or profits. Property dividend consists of a portion of corporate property paid to shareholders instead of cash or corporate stock. In recording the property dividends at their carrying/book value, there is no profit or gain realized or recognized in the transaction by the taxpayer.

The declaration and distribution of property dividends to shareholders in the form of shares of stock is not within the ambit of the term "*other disposition of shares of stock*" in RR No. 6-2008, as amended by RR No. 6-2013. Instead, such is a mere equity transaction since the corporation declaring the property dividend did not recognize any gain or loss therefrom. Therefore, as there was no inadequacy of consideration to speak of in the transaction, the assessment of deficiency donor's tax thereon has no factual and legal basis.

As part and parcel of the due process requirement in the issuance of deficiency tax assessment, the CIR or his duly authorized representative is duty bound to wait for the expiration of fifteen (15) days from the date of receipt of the PAN before issuing the FLD and FAN

Commissioner of Internal Revenue v. Pacific Bayview Properties, Inc., CTA Case No. 9070, October 8, 2018

Under Revenue Regulations (RR) No. 12-99 as amended, a taxpayer has fifteen

(15) days from receipt of the PAN to file a protest thereto with the BIR. If during the said period, the taxpayer failed to file a protest to the PAN, it is only then that the CIR or his duly authorized representative can consider the taxpayer in default, and correspondingly cause the issuance of an FLD and assessment notice, which shall be subsequently served to the taxpayer.

By prematurely issuing the FLD or FAN, i.e., without awaiting the lapse of the fifteen (15)-day period, the CIR disregarded the mandatory due process requirement and as a consequence, taxpayer was denied its right to due process.

BIR ISSUANCES

RR 22-2018 issued on October 17, 2018

This revenue regulation amends Section 10 of RR 10-2010 otherwise known as the "Exchange of Information Regulations". The new Section 10 of RR 10-2010 states that a taxpayer shall be duly notified in writing by the CIR that a foreign tax authority is requesting for exchange of information held by financial institutions pursuant to an international convention or agreement on tax matters. Such notice of the CIR shall be given to the taxpayer within 60 days following the transmittal of all information requested from and provided by the concerned financial institution to the requesting treaty partner. However, in case where notification is likely to undermine the success of the investigation conducted by the requesting jurisdiction, and the requesting jurisdiction has made a substantiated request for a deferment of the notification based on these grounds, notice to the taxpayer must only be given after receipt of communication from the requesting jurisdiction that the investigation has already attained finality.

RMO No. 43-2018 issued on September 28, 2018

This RMO prescribes the guidelines and procedures in the filing and submission of Statement of Assets, Liabilities and Net Worth (SALN) and the establishment of Review and Compliance Committee (RCC) per office and Overall Review and Compliance Committee of the BIR.

RMO No. 46-2018 issued on October 11, 2018

This RMO prescribes the procedures in the decentralized processing and issuance of Tax Clearance for Bidding Purposes required under RA No. 9184 and EO No. 398.

RMC No. 83-2018 issued on October 1, 2018

This RMO circularizes the letter issued by the Microfinance NGOs Regulatory Council relative to Revenue Regulations No. 3-2017 which implements the tax provisions of RA No. 10693 ("Microfinance NGOs Act").