



TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.



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

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DISCUSSION

A. SUPREME COURT

When computing basic deficiency WTC based on the effective WTC rate is valid

Asian Transmission Corporation vs. Commissioner of Internal Revenue (G.R. No. 242489, 08 November 2023)

The Bureau of Internal Revenue (BIR) issued a Formal Letter of Demand assessing a taxpayer for, among others, deficiency withholding taxes on compensation (WTC). The basic deficiency WTC was computed by multiplying unaccounted compensation by the maximum WTC rate of 32%.

However, the taxpayer argued that the BIR should have used the effective WTC rate which was equivalent to the ratio of total WTC to total taxable compensation. In this case, the effective rate was only 19.88%.

The Supreme Court affirmed the validity of using the effective WTC rate of 19.88% instead the maximum rate of 32%. This was because the employees to whom the unaccounted compensation pertained to were not individually identified by the BIR. Since the taxpayer's employees consisted of both managerial and supervisory employees, and rank-and-file employees who received different amounts of compensation (subject to different WTC rates), it would be logical not to apply the maximum 32% rate to all unaccounted compensation.

B. COURT OF TAX APPEALS

Letter of Authority not required to authorize Revenue Officers who will conduct a reinvestigation

Commissioner of Internal Revenue vs. RCL Feeders Phils., Inc. (CTA EB No. 2772, 29 April 2024)

After the issuance of a Final Assessment Notice, a Letter of Authority (LOA) is not required to authorize the Revenue Officer who will conduct the reinvestigation of the deficiency tax assessments. The Court of Tax Appeals (CTA) *En Banc* reasoned that although Section 13 in relation to Section 6 of the Tax Code requires an LOA to be addressed to Revenue Officer before a tax examination and recommendation of an assessment may be had, the law does not specifically require the issuance of an LOA for purposes of recommending a Final Decision on a Disputed Assessment (FDDA).

The CTA *En Banc* explained that the requirement for an LOA pertains to the stage when the Revenue Officer and Group Supervisor would audit the taxpayer's books of accounts and other accounting records, and recommend the issuance of a Preliminary Assessment Notice and Final Assessment Notice (FAN). Such requirement does not envision the situation where a reinvestigation will have to be conducted to come up with a decision (*i.e.*, FDDA) on the taxpayer's protest to the FAN.

The CTA *En Banc* added that even assuming that an LOA is required to conduct the reinvestigation, its absence would only invalidate the resulting decision (*e.g.*, FDDA) and not the assessment.

C. REVENUE MEMORANDUM CIRCULAR

1. Updated Alphalist Data Entry and Validation Module Version 7.3

(Revenue Memorandum Circular No. 61-2024, issued 13 May 2024)

The Bureau of Internal Revenue announced the availability of the updated Version 7.3 of the Alphalist Data Entry and Validation Module. Version 7.3 includes additional Alphanumeric Tax Codes (ATCs) and may be downloaded from www.bir.gov.ph.

2. Clarifying the deductibility of expenses not properly subjected to withholding tax

(Revenue Memorandum Circular No. 60-2024, issued 13 April 2024)

Section 34(K) of the Tax Code which mandates the withholding of applicable withholding taxes as a prerequisite for the deductibility of expenses for income tax purposes was repealed by Republic Act No. 11976, otherwise known as the Ease of Paying Taxes (EOPT) Act.

In this light, the Bureau of Internal Revenue (BIR) issued the following clarifications with respect to tax assessment cases and on-going tax audits or investigations covering taxable periods prior to the effectivity of the EOPT Act:

1. For all ongoing tax audits covering taxable periods prior to January 1, 2024, expenses that were not properly subjected to withholding taxes shall be allowed as deductions by the handling Revenue Officers only if such withholding taxes were paid to the BIR, whether prior to audit or submission of the audit report to the BIR reviewing office.
2. If the required withholding taxes were not withheld and the same were not paid prior to the submission of the audit report to the BIR reviewing office, the handling Revenue Officer shall recommend the issuance of assessment notices both on the income tax and withholding tax.
3. For audit cases already submitted to the BIR reviewing office
 - a. Paid Case – same as Item No. 1 above; and
 - b. Assessed Case – Issuance of assessment on both income tax and withholding tax.

For taxable year covering January 1, 2024 and onwards, expenses and income payments subject to withholding taxes shall be allowed as deductions even if no taxes were withheld as long as the other requirements for deductibility have been met. However, the taxpayer shall still be liable for the withholding tax due.

3. Where to apply for Electronic Certificates Authorizing Registration

(Revenue Memorandum Circular No. 56-2024, issued 17 April 2024)

With the enactment of the Ease of Paying Taxes (EOPT) Act, tax returns shall now be filed electronically while taxes shall be paid electronically or manually through any Authorized Agent Bank (AAB) or Revenue Collection Officer, regardless of where the taxpayer is registered.

In this light, the Bureau of Internal Revenue issued the following clarifications with respect to One-Time Transactions (ONETT) and where the corresponding applications for issuance of Electronic Certificates Authorizing Registration (eCARs) should be filed:

Transaction	Venue
Sale of real property	Revenue District Office (RDO) which has jurisdiction over the location of the real property subject of the sale
Sale of personal property	RDO which has jurisdiction over the residence of the seller
Donation	RDO which has jurisdiction over the residence of the donor (if individual) / RDO where the donor is registered (if non-individual)
Estate	<p>RDO which has jurisdiction over the issued Taxpayer Identification Number (TIN) of the Estate of the decedent.</p> <p>If the decedent has registered business, the eCAR shall be processed by the RDO where the business is registered.</p> <p>If the decedent does not have registered business, the TIN may be secured from the RDO where the administrator or heirs intend to apply for the issuance of the eCAR.</p>

Taxpayers who seek help on ONETT tax computations are encouraged to proceed to the RDO which has jurisdiction to secure the ONETT Computation Sheet which shall be the basis for the tax return to be subsequently filed.

Taxpayers may also use the electronic ONETT (eONETT) system when applying for eCARs.

D. REVENUE MEMORANDUM ORDER

Amendment to the guidelines and procedures for processing pending claims for refund/tax credit of excise taxes paid on petroleum products

(Revenue Memorandum Order No. 16-2024, issued 30 April 2024)

In light of the release of Revenue Memorandum Circular (RMC) Nos. 50-2014 and 23-2015, the enactments of the TRAIN Law (Republic Act No. 10963) and the EOPT Act (Republic Act No. 11976), the Bureau of Internal Revenue (BIR) amended the checklist of documentary requirements for the processing of pending claims for refund/tax credit of excise taxes paid on petroleum products sold to international carriers and exempt entities/agencies. The amended requirements are attached as Annex A to Revenue Memorandum Order (RMO) No. 16-2024. Hence, Annex A of RMO No. 19-2006 is accordingly amended.

Furthermore, the BIR provided the following standard policies in the processing of the above claims or applications:

1. Only applications with complete documentary requirements filed within the prescribed period shall be received by the authorized processing office.
2. The time frame to process and grant/deny a claim is 180 days from the date of filing of complete documents in support of the application filed and duly received by the processing office except when the Delinquency Verification Certificate (DVC) shows delinquent accounts.

3. When the DVC shows delinquent accounts other than excise tax, the application shall not be processed. The tax liabilities must be settled first in order that a DVC with no tax liabilities can be issued. In this regard, the 180-day processing period shall be suspended until the delinquent accounts are settled and a new DVC with no tax liabilities is issued.
4. For claims with the BIR, the Accounting Division and Finance Service/Finance Division shall process and approve the Disbursement Voucher for payment of the claims based on the approved report and contents of the docket.
5. For claims with the Bureau of Customs, the evaluation of the BIR report and the grant of refund/tax credit shall be in accordance with existing rules and regulations and shall be completed within the 180-day prescribed time frame.