TAX MANAGEMENT ASSOCIATION OF THE PHILIPPINES, INC.

TAX UPDATES FROM FEBRUARY 15, 2025 TO MARCH 15, 2025

Prepared by:

SM Investments Corporation

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SUPREME COURT

1. Maibarara Geothermal Inc. vs. Commissioner of Internal Revenue. G.R. No. 256720. August 07, 2024

The Court of Tax Appeals (CTA) denied the petitioner's, Maibarara Geothermal Inc., (MGI), claims for tax refund/credit of unutilized input value-added taxes (VAT) for its first, second, third, and fourth quarters of taxable year 2013. Petitioner is a corporation registered as a Renewable Energy (RE) Developer of the 20 MV Maibarara Geothermal Power Generation Project in Batangas and Laguna, filed a Petition for Review on Certiorari under Rule 45 of the Rules of Court.

In 2015, petitioner filed four administrative claims to refund its alleged unutilized input VAT attributable to zero-rated sales for the four quarters of the taxable year 2013, amounting to PHP 81,572,707.81. After no action had been performed by the Commissioner of Internal Revenue (CIR), the petitioner filed various petitions for review before the CTA.

CTA Division denied the consolidated petitions for review for lack of merit, emphasizing that a taxpayer must be engaged in zero-rated or effectively zero-rated sales to successfully obtain a credit or refund of input VAT. Stating the statement of the CTA Division:

"We agree with the CTA En Banc that the petitioner did not produce evidence showing that it had zero-rated sales for the four quarters of the taxable year 2001. As the CTA En Banc precisely found, the petitioner did not reflect any zero-rated sales from its power generation in its four quarterly VAT

returns, in which indicated that it had not made any sale of electricity. Had there been zero-rated sales, it would have reported then in the returns."

MGI argued that there is no requirement under Section 112 of the National Internal Revenue Code of 1977, as Amended by Republic Act No. 9337, that the zero-rated or effectively zero-rated sales should be made during the same period as when the input taxes sought to be refunded were incurred or paid. CTA EB agreed with the contention however, emphasized that the presence of zero-rated sales during the period of the claim, regardless of the period when the claimed input VAT was incurred must nonetheless be established, and the burden to establish this fact lay on the taxpayer trying to obtain tax credit/refund of unutilized input VAT.

CTA EB ruled that the petitioner's submission of quarterly VAT returns, income tax returns, and audited financial statements from the taxable year 2010 to 2013, Electric Supply Agreements with Trans-Asia Oil and Energy Development Corporation, and Official Receipt No. 0501, dated March 25, 2014, are insufficient to establish the existence of zero-rated sales from its operations as a RE Developer.

Furthermore, CTA EB found that despite the claim of MGI being entitled to a VAT zero-rating treatment of its sale of fuel or power generated from renewable sources of energy and its purchases of local supply or goods, properties, and services related to the development, construction, and installation of its power facilities, petitioner failed to establish that it is engaged in zero-rated sales as having no showing of issued Certificate of Endorsement by the Department of Energy (DOE) on a per transaction basis. Citing Section 15 of Republic Act No. 9513 or the Renewable Energy Act of 2008 and Part III, Rule 5, Section 13(G) of its Implementing Rules and Regulations (IRR), stating that three documents are required from a RE developer for it to qualify for VAT zero-rating:

1. DOE Certificate of Registration
2. BOI Certificate of Registration
3. *Certificate of Endorsement from the DOE*

The petitioner argued that the Certificate of Endorsement from the DOE is only required to avail of the incentives under Section 15 (b) of Republic Act No. 9513 – Duty-free Importation of RE Machinery, Equipment and Material. CTA EB argued that the DOE could add additional requirements.

Hence, the issues presented to the Court are (1) Whether the CTA EB erred in ruling that MGI failed to establish that it is engaged in zero-rated sales, based on Republic Act No. 9513 and its IRR; and (2) Whether the CTA EB erred in affirming the ruling of the CTA Division that MGI is not entitled to claim a refund of input VAT under Section 112(A) of the NIRC.

The Court ruled that while the DOE may impose further requirements before it can qualify the RE developer or their transactions to the fiscal incentives under Section 15, it cannot impose other certification requirements, such as a certificate of endorsement, to the VAT zero-rating incentive. In requiring to do so for the claim of the incentives provided under RA 9513, DOE will exceed its authority intended to be granted by the lawmakers. Thus, as it stands, the only requirement for VAT zero-rating qualification, aside from the conditions imposed by the NIRC, is the RE Developer's registration with the DOE, which the petitioner has complied with. As the Court ruled that additional certification requirement such as the issue at hand despite the subordinate legislation granted to the DOE will result to exceeding of authority.

Concerning the second issue, the Court states that CTA's factual findings are binding on this Court and that, absent of compelling reasons to scrutinize facts, only legal questions are subject to examination.

The Court ruled that the petitioner failed to show that CTA committed grave abuse of discretion in making its factual determination. Likewise, there is no showing that the findings are based on speculations, conjectures, misapprehension, or mistake of facts. Hence, the Court found no reason to disturb CTA's actual finding

For these reasons, the Court denied the instant Petition for Review on Certiorari.

COURT OF TAX APPEALS

1. ***Mindanao Container Corporation v. Commissioner of Internal Revenue, CTA Case No. 10513, February 19, 2025***

Petitioner, Mindanao Container Corporation filed an Application for Tax Credits/Refunds (BIR Form No. 1914) for its alleged excess input value-added tax (VAT) attributable to its zero-rated sales for the third quarter of taxable year 2018. The said application of a VAT refund amounting to Php3,517,238.83 was denied.

The petitioner raised the following arguments: (1) it is entitled to a tax refund or tax credit certificate for its excess and unutilized input VAT credits attributable to its zero-rated VAT sales for the said taxable year, (2) that it is a VAT-registered entity, with the input taxes paid, without transitional input taxes or excess input VATs which have not be applied, (3) claim was filed within the 2 year prescriptive period after the close of the taxable quarter when such sales were made and that additional requirement provided under RMC No. 47-2019 is void because it is not provided by law, and (4) it has no outstanding tax liabilities. Respondent countered these arguments stating that petitioner failed to prove that its sales qualified for zero-rated VAT sales at the administrative level and that it did not comply with RMC No. 47-2019.

The Court ruled partially in favor of the Petitioner, granting only a refund of P2,653,745.17, instead of the full P3,517,238.83 claim.

The Court reiterated that in order to qualify an export sale as a zero-rated sale the following essential elements must be present:

1. The sale was made by a VAT-registered person;
2. There was sale and actual shipment of goods from the Philippines to a foreign country; and
3. The sale was paid for in acceptable foreign currency or its equivalent in goods or services and was accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP).

The first essential element was not contested as the petitioner is proven to be a VAT-registered person, however, petitioner failed to provide bills of lading, airway bills or delivery memos to prove actual shipment of goods from the Philippines to a foreign country which is vital in satisfy the second essential element. Petitioner failed to present sufficient and convincing evidence to prove the actual shipment of goods from the Philippines to a foreign country, it was able to provide sales

invoices but without delivery memos. The Court also ruled that the petitioner failed to present sufficient and convincing evidence to prove the actual shipment of goods from the Philippines to a foreign country.

Hence, the Court agreed that the amount of Php1,192,333.84 shall be disallowed for failure to meet the invoicing requirements. This portion of its sales to BOI-registered entities were disallowed due to the lack of proof of actual shipment, failing to satisfy the second essential element mentioned above.

2. ***Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue, CTA Case No. 10083, February 19, 2025***

Petitioner filed for its tax refund claim attributable to the overpayment of capital gain tax (CGT), surcharge, and interest amounting to Php3,118,106.10. Initially, the Court of Tax Appeals (CTA) dismissed the case for lack of jurisdiction, stating that dispute between government agencies should be resolved through administrative settlement. The case is then appealed to CTA En Banc which ruled that the CTA Division had jurisdiction and remanded the case for resolution on the merits, hence, the case at hand.

The petitioner's argument is that the Bureau of Internal Revenue (BIR) used the wrong fair market value (FMV) which resulted in the wrong computation of CGT as well as the wrong computation of surcharge and interest due.

The Court ruled that part of the paid CGT is erroneous or illegal; the surcharge should not have been imposed; and the interest collected is excessive. The Court cited Section 27(D)(5) and Section 6(E) of the 1997 NIRC. It states that the FMV of a real property, for purposes of computing any internal revenue tax such as the CGT, would either be the FMV as determined by respondent (Zonal Value), or the FMV as shown in the schedules of values of the Provincial and City Assessors, whichever is higher. Once the higher of the said FMVs is determined, the same would be compared to the gross selling price, and whichever now is higher would be the tax base and that 6% would be applied.

Under the Court's findings, the BIR used an incorrect zonal value of P10,650 per sqm instead of the P4,725 per sqm which is the zonal value for the industrial lots at Calumpang at the time when the subject sale by petitioner to RD Realty Development Corporation was made. It was also ruled that the surcharge was wrongfully imposed as petitioner is not liable for civil penalties under Section 248 of the NIRC since it did not fall under the specific instances where the 25% or 50% surcharged is imposed and that the interest was erroneously computed due to the changes in the computation of CGT.

CTA granted the petitioner claim for a refund, ordering the respondent to refund P5,677,373.22 due to excessive tax, surcharge, and interest paid.

3. ***People of the Philippines and Bureau of Internal Revenue, as represented by the Commissioner of Internal Revenue v. Rappler Holdings Corporation and Maria A. Ressa, CTA En Banc Crim No. 126, February 21, 2025***

Consolidated criminal complaints filed by the People of the Philippines against Rappler Holdings Corporation (RHC) and Maria A. Ressa for alleged violations of Sections 254 and 255 of the National Internal Revenue Code (NIRC) of 1997, as amended. The allegations were centered on RHC's failure to report the issuance and sale of Philippine Depositary Receipts (PDRs), which the government argued was a taxable event that should have been subjected to income tax and value-added tax (VAT).

The Bureau of Internal Revenue (BIR) claimed that RHC, as a dealer in securities, engaged in the taxable sale of securities to NBM Rappler L.P. and Omidyar Network Fund LLC, allegedly resulted in a deficiency VAT of P21.5 million. The prosecution contended that RHC intentionally failed to report this in its quarterly VAT returns for the third and fourth quarters of 2015, constituting tax evasion and misrepresentation.

During the trial, Maria Ressa was arraigned and pleaded "Not Guilty" to the charges. The Court of Tax Appeals (CTA) First Division ruled in favor of the accused, prompting the prosecution to appeal to the CTA En Banc, hence the Petition for Certiorari at hand.

CTA First Division ruled the following:

1. RHC is not a dealer in securities as it is a holding company not engaged in the regular sale of securities. It found that the PDR transaction were considered investment transactions and not a sales of share
2. No taxable event occurred as the PDR holders did not acquire ownership of the share, there was no sale, no income and thus no VAT or income tax due.
3. The prosecution was not able to prove beyond a reasonable doubt that the accused willfully and knowingly misrepresented their tax fillings
4. Due to the finding that no tax obligation was proven, no separate civil liability could be imposed.

The CTA En Banc denied the petition and affirmed the acquittal of RHC and Maria Ressa from the CTA First Division decision. The court ruled that double jeopardy applied in this case, preventing the government from appealing the acquittal unless there was grave abuse of discretion by the trial court. It also reiterated that the Commissioner of Internal Revenue failed to prove it claim that the respondent acted as a securities dealer and that the sale of PDRs was a taxable sale of share.

4. ***Kingston Aluminum and Stainless Corp., represented by its President, Mildrid V. Ching v. Bureau of Internal Revenue – Revenue Region No. 94, represented by the Regional Director Gerry O. Dumayas, CTA Case No. 10326, February 24, 2025***

   The petitioner received a Letter of Authority (LOA) from the Bureau of Internal Revenue (BIR), authorizing the examination of its books for taxable year 2017. The Preliminary Assessment Notice (PAN) was issued which the petitioner counter protested, however, this is followed by the issuance of a Formal Letter of Demand (FLD) which the petitioner also filed a protest against it. The Final Decision on Disputed Assessment (FDDA) was later issued and received by the petitioner. A Petition for Review before the Court of Tax Appeals was then filed, challenging the validity of the assessment.

   One of the main issues presented to the Court is whether the assessment is void for failing to consider the Petitioner's protest, thereby violating its right against due process.

   The Court found that the FLD contained conflicting due dates which are one stating that the payment should be made 15 days from the PAN receipt and another setting February 29, 2020, as the payment due date. This inconsistency violated due process, rendering the assessment void. The Court also rules that the BIR failure to respond adequately to the Petitioner's argument/protest, violated its right to due process. Stating that under the case of Commission of Internal Revenue vs. Avon Products Manufacturing, Inc., tax authorities must provide reasons for rejecting taxpayer's defenses.

   The Petition for Review was granted by the Court and the PAN, FLD, FDDA, and Letter-Reply were cancelled and set aside due to the violation of the petitioner's right to due process. Hence, BIR was prohibited from collecting any tax based on the void assessment.

5. ***PPI Holdings, Inc. v. Commissioner of Internal Revenue and BIR Large Taxpayer Services – Collection and Enforcement Division, CTA Case No. 10476, February 27, 2025***

   The Petitioner received Letter of Authority (LOA), dated September 2, 2015, authorizing Revenue Officer (RO) Matias Fadri III and Group Supervisor (GS) Marilyn San Diego to examine its books of accounts for taxable year 2013.

   The issue now raised in the Court is whether the petitioner is entitled to a tax refund that was allegedly collected without due process.

   The Court ruled that the assessment is void due to the lack of authority of the investigating officer. It was found out that the audit was conducted by GS Ma. Daisy C. Dajao, who was not named in the original LOA. Supreme Court rulings state that a LOA is mandatory, and if an unauthorized officer conducts an audit, the assessment is void. And since no amended LOA was issued for GS Dajao, the tax assessment was declared null and void.

As the tax collection was based on an invalid assessment, the Court ruled that the collection efforts including the issuance of the Warrant of Distraint and Levy and Warrant of Garnishment had no legal basis. Emphasizing that "a void assessment bears no valid fruit," hence, any tax collection from it must be refunded.

Given the findings, the Court ordered the refund to the petitioner amounting to P25,850,537.87 as the tax collection conducted by BIR was done without a valid tax assessment.

6. ***People of the Philippines v. PGU General Merchandise, Inc. Fook Seong Yong and Rocelle Francisco, CTA En Banc Crim No. 145, March 03, 2025***

The Commissioner of Internal Revenue (CIR) issued a final decision on the disputed assessment on August 7, 2015, which was not appealed by PGU General Merchandise (respondent). Hence, the assessment became final, executory, and demandable in September 2015.

The complaint for preliminary investigation was filed with the Department of Justice (DOJ) three years after the assessment has become final, executory, and demandable on September 27, 2018. However, the information was filed with the Court of Tax Appeals (CTA) only on August 10, 2023, charging the respondents with willfully and knowingly failing to pay deficiency income tax for taxable year 2008. The case was dismissed by the CTA First Division, ruling that the government's right to prosecute had already been prescribed under Section 281 of the Tax Code which states the 5-year prescriptive period. The Motion for Reconsideration was denied.

Presented now in the issues whether the filing of the complaint for preliminary investigation tolled the running of the five-year prescriptive period for the tax violation.

The CTA En Banc denied the Petition for Review and upheld the CTA First Division's dismissal of the case due to the information filed past the 5 years prescription period. The Court states that under Section 281 of the Tax Code, violations of the Tax Code prescribe after five years and that the prescription period begins from the commission of the violation or, if unknown, from its discovery and the institution of judicial proceedings. In this case the offense was committed on September 7, 2015 (when the tax assessment became final and the respondents failed to pay). Thus, the case prescribed on September 7, 2020 unless interrupted.

The Court ruled that the filing of a complaint for preliminary investigation does not toll the prescription period, citing Lim v. Court of Appeals, only the filing of the Information in court interrupts prescription, not preliminary investigation. Allowing preliminary investigation to toll prescription would create an absurd scenario where prescription never runs. In the case at hand, Information was filed only on August 10, 2023, almost three years after the case had already prescribed making the case properly dismissed.

7. ***Suburbia Automotive Ventures, Inc. v. Commissioner of Internal Revenue, CTA Case No. 10128, March 03, 2025***

Petitioner is a corporation engaged in automotive repair and detailing services, registered with the Bureau of Internal Revenue (BIR). The BIR issued a Letter of Authority (LOA) on September 27, 2016, authorizing the examination of Petitioner's tax liabilities for the taxable year 2015. Subsequently, the BIR issued a Preliminary Assessment Notice (PAN) on September 6, 2018, and a Formal Letter of Demand (FLD) and Final Assessment Notice (FAN) on October 11, 2018, assessing Petitioner for deficiency income tax, value-added tax (VAT), and expanded withholding tax (EWT) amounting to ₱45,757,423.40.

Petitioner protested the assessment on November 15, 2018, requesting a reinvestigation and alleging violations of due process. It claimed that the assessment was issued beyond the statute of limitations, lacked factual and legal bases, and failed to specify the due date for payment. The BIR issued a Final Decision on Disputed Assessment (FDDA) on May 23, 2019, rejecting petitioner's protest for failure to present supporting documents.

On July 22, 2019, petitioner filed a Petition for Review before the Court of Tax Appeals (CTA). During the proceedings, the petitioner also sought the lifting of garnishment orders imposed by the BIR. The CTA issued a temporary suspension of tax collection upon the posting of a surety bond.

The Court ruled that petitioner failed to validly contest the tax assessment within the prescribed period of 60 days for the reinvestigation that it filed. Under Section 228 of the NIRC, a taxpayer must file a complete protest with all supporting documents within 60 days of filing a request for reinvestigation. In the case at hand, the petitioner had only until January 14, 2019, to file and failure to do so caused the assessment to become final and unappealable. Absence of a valid protest rendered no decision on a disputed assessment that could be appealed before the CTA.

The Court also emphasizes that jurisdiction over tax disputes is appellate and limited to decisions of the Commissioner of Internal Revenue (CIR). Because Petitioner's protest was defective, the BIR's decision was final, executory, and demandable before the case reached the CTA.

The Petition for Review was Dismissed as the CTA lacks jurisdiction over unprotested assessments; hence, it cannot rule on the validity of the tax assessment or the alleged due process violations.

8. ***Green Cross Inc., v. Commissioner of Internal Revenue, CTA En Banc No. 2912, March 03, 2025***

The Petitioner filed a claim for a refund amounting to P117,973,507.78, representing excise taxes and value-added tax (VAT) on these excise taxes paid on its cologne products/splash colognes for the period November 2018 to December 2019. The Bureau of Internal Revenue (BIR) classified these products as "toilet waters" under Section 150(b) of the National Internal Revenue Code (NIRC) of 1997, as amended, making them subject to 20% excise tax. Petitioner counter claims

that its colognes were not taxable as "toilet waters" and that the proper definition should come from Revenue Regulations (RR) No. 8-84, which limited "toilet waters" to products containing more than 3% essential oils.

The claim was denied by the CTA Special Second Division, ruling that RR No. 8-84 had been repealed and that the BIR's interpretation under BIR Ruling No. 043-2000 and Revenue Memorandum Circular (RMC) No. 17-02 was controlling which interpreted “toilet waters” to include all colognes regardless of essential oil content. Petitioner filed a Petition for Review with the CTA En Banc, hence, the case at hand, arguing that the definition under RR No. 8-84 should still apply.

The Court denied the petition and affirmed the decision of the CTA Special Second Division. It ruled that RR No. 8-84 was repealed due to the amendments in the NIRC of 1997, particularly Executive Order (EO) No. 273 and the Tax Reform Act of 1997, which shifted the tax on "toilet waters" from a percentage tax to an excise tax. The Court affirmed that BIR correctly interpreted the term "toilet waters.” Applying the repealed regulation which the petitioner is claiming should have taken effect will result to the action of the Court being interpreted as extending or creating policy beyond the scope of current law.

The Court also ruled that the argument that colognes are not included in “perfumes and toilet waters” which are considered as "non-essential goods" was rejected, as price and consumer reach are not the primary determinants of "non-essential goods" under Section 150 of the NIRC of 1997. Additionally, the Court disagreed with the petitioner that “non-essential goods” intention is to imposed tax on luxury items that is beyond the reach of bulk of consumers, it stated that the term as commonly understood, refers to the functionality of the product rather than its fair market value.

9. ***Air Drilling Associates PTE LTD., v. Commissioner of Internal Revenue, CTA Case No. 10957, March 07, 2025***

Petitioner is a branch office of a foreign corporation based in Singapore, engaged in geothermal aerated drilling services in the Philippines. It is registered with the Bureau of Internal Revenue (BIR) and is subject to value-added tax (VAT). It filed an administrative claim for refund or issuance of a tax credit certificate for its excess and unutilized input VAT attributable to its zero-rated sales for the 2nd to 4th quarters of taxable year 2020, which amounts to P13,071,974.37. These sales were made to renewable energy developers, Energy Development Corporation (EDC) and Philippine Geothermal Production Company Inc. (PGPC), which are entitled to zero-rated VAT incentives under Section 15(g) of the Renewable Energy Act of 2008 or RA 9513.

The Administrative claim of the petitioner was denied by the BIR citing that it failed to comply with the invoicing requirements under Section 113 (B)(2)(c) of the National Internal Revenue Code (NIRC) of 1997 which states that “*If the sale is subject to zero percent (0%) value-added tax, the term 'zero-rated sale' shall be written or printed on the invoice*.” The petitioner argued that it

complied with all requirements and that the government interpretation was unduly restrictive, hence, the Petition for Review at hand.

The Court ruled that the petitioner partially complied with the requirements for VAT refund. It found that the sales to EDC and PGPC by the petitioner qualified for zero-rating because these entities are DOE-registered renewable energy developers entitled to VAT incentives under RA 9513. Services provided by the petitioner made it eligible for VAT zero-rating as it is necessary for geothermal energy production. The court also ruled that some of the petitioner's issued invoices that indicate "zero-rated sale" are accepted, making it entitled to a partial grant of the refund claim.

The Court ordered the Commissioner of Internal Revenue (CIR) to refund or issue a tax credit certificate amounting to P3,566,817.96 to the petitioner.

10. ***Regus PLT Centre, Inc., v. Commissioner of Internal Revenue, CTA Case No. 10778, March 11, 2025***

The respondent issued a Letter of Authority (LOA) dated April 8, 2019, authorizing the examination of the Petitioner's record for all internal revenue taxes for the taxable year 2017. Following this is the issuance of subsequent notices due to the alleged tax deficiencies, including the following:

- Notice of Informal Conference
- Preliminary Assessment Notice (PAN)
- Formal Letter of Demand (FLD)
- Final Assessment Notice (FAN)
- Warrant of Distraint and Garnishment (WDL and WOG)

The Petitioner counter argued that the PAN and FLD/FAN were improperly served by the respondent by substituted service hence, claiming that the assessment is void for the lack of due process. Respondent claims that initially the PAN was to be served by personal service but since no one was found in its Philam Office in Makati, she resorted to serving the notice by substituted service through a barangay official.

The Court ruled in favor of the Petitioner. Despite the failure of the petitioner to inform the BIR of the closure of its head office in accordance with the required procedure, the respondent's availment of substituted service of the PAN and FAN/FLD at petitioner's claimed closed office is justified. However, the Court also ruled that the respondent failed to provide enough evidence to show that the PAN was indeed served by substituted service to and received by the said barangay official.

The Court found that the attachment to the PAN is an Acknowledgement Receipt that the PAN is served to the Barangay Secretary, witness by two other individuals but it is lacking on the part pertaining to the reason for the substituted service. (1) no person found in the taxpayer's registered or known address or (2) party refused to receive the Assessment Notice. Neither were the official positions of the witnesses indicated in the Acknowledgment Receipt in violation of subsection 3.1.6 of RR No. 18-2013 and subsection 2.1.4 of RMO No. 40-19.

Hence, the assessment notice being void likewise resulted to the issuance of the WDL and WOG being invalid and devoid any legal foundation. The Court grant the Petition for Review and ordered that the WDL and WOG issued are withdrawn and set aside.

11. ***Redentor Agpuldo Tagala, as the proprietor of the 7th Concept Trading / 7C Construction, v. Commissioner of Internal Revenue, CTA Case No. 10721, March 11, 2025***

The Petitioner who is the sole proprietor of the 7th Concept Trading also known as 7C Construction was assessed by the Bureau of Internal Revenue for alleged tax deficiencies amounting to P10,108,681.35 covering income tax, value-added tax, and miscellaneous tax for the taxable year 2016. BIR issued a Final Decision on Disputed Assessment (FDDA) against the petitioner whom it counter argued that there were procedural lapses in the issuance and service of the Letter of Authority (LOA) and the FDDA, claiming a violation of due process.

The case at hand was initially heard by the Second Division of the CTA, where mediation proceedings failed. It was also later transferred to the First Division of the CTA for further proceedings.

The Court ruled in concurring stating that tax assessments enjoy a presumption of correctness and since the petitioner was not able to present credible evidence to refute the assessment, the tax liability remained valid. Additionally, the petitioner has multiple opportunities to present records, including the during the informal conference and in his Letter-Protest, but failed to do so.

CTA upheld the tax assessment against the petitioner and ordered him to pay the tax deficiencies along with the penalties and interest pursuant to Section 249 of the NIRC of 1997 as amended by the TRAIN Law.

12. ***Master Sports Corporation, v. Commissioner of Internal Revenue, CTA Case No. 10490, March 11, 2025***

On March 20, 2012, the Commissioner of Internal Revenue (CIR) issued Letter of Authority (LOA), authorizing to examine petitioner's books of accounts for all internal revenue taxes for the period of January 2010 to December 21, 2010, which is properly received by the petitioner's authorized representative on March 27, 2012.

After the petitioner's execution of several waivers which extended the period of assessment, the Bureau of Internal Revenue issued the Formal Assessment Notice (FAN) demanding the payment of P36,535,220.90 covering income tax, value-added tax, withholding tax on compensation, expanded withholding tax, documentary stamp tax, and compromise penalties. Petitioner protested this assessment and requested a reinvestigation to clarify the basis of the alleged tax deficiencies. The request was granted by the BIR to give more time for document submission but later issued a Final Decision on Disputed Assessment (FDDA) on November 04, 2015, increasing the amount due to be paid by the petitioner.

The petitioner filed motions for reconsideration in 2015, 2017, and 2019, citing lack of due process, incorrect assessments, and financial hardship but BIR denied the appeals and issued a collection letters starting 2017. On February 3, 2021, the BIR issued a final decision upholding the tax liability which is the subject of this appeal.

The issue to be solved by the Court now lies in whether the BIR's right to collect the said taxes has already prescribed.

The Court found that Section 223 of the National Internal Revenue Code (NIRC) of 1997, as amended, is clear that only a request for reinvestigation which the CIR has granted will suspend the running of the statute of limitations and not request for reconsideration. Stating that a reinvestigation entails the reception and evaluation of additional evidence which will take more than a reconsideration of a tax assessment which is limited to the already available evidence. It also found that despite the issued of multiple COVID-19 issuances that extended the prescriptive periods of the assessment and collection, the respondent only has until June 05, 2021, to collect the deficiency taxes. Stating that BIR considered the duration of Enhanced Community Quarantine as a suspension for the running statute of limitations since their personnel were unable to continue assessment or collection but when lesser quarantine restrictions such as General Community Quarantine or Modified General Community Quarantine was imposed it did not intend to exclude these in the counting of the prescriptive period.

The Court ruled in concurring, granting the Petition for Review as the right of respondent Commissioner of Internal Revenue to collect the subject deficiency taxes has prescribed. The Court also enjoined the respondent or any person duly action on his or her behalf from proceeding with the collection of taxes arising from the FDDA.

REVENUE REGULATIONS

1. Revenue Regulation No. 005-2025

The Bureau of Internal Revenue (BIR) has issued Revenue Regulation (RR) No. 005-2025 dated February 25, 2025 regarding the subject of Amending RR No. 2-98 Relative to the Withholding Tax Rates on Certain Income Payments Subject to Creditable Withholding Tax Pursuant to Section 57 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 12066.

The RR provided the following further amendments.

Sec. 2.57.2. Income Payments Subject to creditable withholding tax rates prescribed thereon. –

xxx

(H) Certain income payments made by credit card companies – On the gross amounts paid by any credit card company in the Philippines to any business entity whether a natural or juridical person,

representing the sales of goods/services made by the aforesaid business entity to cardholders – One-half percent (1/2%)

xxx

(X) Remittances of Electronic Marketplace Operators and Digital Financial Services Providers to Merchants – On the gross remittances by e-marketplace operators and digital financial services providers to the sellers/merchants for the goods or services sold/paid through their platform/facility – One-half percent (1/2%)

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 006-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%206-2025%20(1).pdf

2. Revenue Regulation No. 006-2025

The Bureau of Internal Revenue (BIR) has issued Revenue Regulation (RR) No. 006-2025 dated February 25, 2025 regarding the subject of Implementing Section 135 on Petroleum Products Sold to International Carriers and Exempt Entities or Agencies and the new Section 135-A on Refund of Excise Tax on Petroleum Products of the National Internal Revenue Code of 1997, as amended by Republic Act No. 12066.

The RR aims to implement Section 135 and 135-A of the Tax Code, specifically on (1) Exemption from Excise Tax of Petroleum Products Sold to International Carriers and Exempt Entities or Agencies; and (2) Refund of Excise Tax on Exempt Petroleum Products.

To provide ample time for the taxpayer and the BIR to adjust to the new requirements and procedures to be prescribed pursuant to the amendments introduced by RA No. 12066, these regulations shall cover claim for refund that are filed starting April 1, 2025, onwards.

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 006-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%206-2025%20(1).pdf

3. Revenue Regulation No. 007-2025

The Bureau of Internal Revenue (BIR) has issued Revenue Regulation (RR) No. 007-2025 dated February 25, 2025 regarding the subject of Implementing the Amendments to Sections 27, 28, and 34 of the National Internal Revenue Code of 1997, as Amended by Republic Act No. 12066.

The RR aims to implement Section 27, 28, and 34 of the Tax Code, specifically on (1) Reduced income tax rates for domestic and resident foreign corporation classified as Registered Business Enterprises (RBEs) under the Enhanced Deductions Regime (EDR) as provided in Section 294(C) of the Tax Code; and (2) additional allowable deductions from gross income under Section 34(C)(8) of the same Code.

A. Domestic Corporations:

PARTICULARS	INCOME TAX RATE	EFFECTIVITY
Domestic Corporations, in general	25%	July 1, 2020
Domestic Corporations with net taxable income not exceeding Five Million Pesos (P5,000,000.00) and with total assets not exceeding One Hundred Million Pesos (P100,000,000.00), excluding land on which the particular business entity's office, plant and equipment are situated, during the taxable year for which tax is imposed	20%	July 1, 2020
Domestic corporations classified as RBEs under the EDR as provided in SEC. 294 (C) of the Tax Code	20%	November 28, 2024

B. Resident Foreign Corporations:

PARTICULARS	INCOME TAX RATE	EFFECTIVITY
Resident Foreign Corporations, in general	25%	July 1, 2020
Resident Foreign Corporations classified as RBEs under the EDR as provided in Sec. 294 (C) of the Tax Code	20%	November 28, 2024

For a comprehensive understanding, you can refer to the full text of RR No. 007-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%207-2025.pdf

4. Revenue Regulation No. 008-2025

The Bureau of Internal Revenue (BIR) issued Revenue Regulation (RR) No. 008-2025, dated February 25, 2025. The RR establishes the procedures for taxpayers to request reconsideration of full or partial denials of their claims for refunds filed on or after April 1, 2025. This regulation aims to provide a clear process for taxpayers seeking to contest decisions regarding their refund applications.

Additionally, Revenue Memorandum Order (RMO) No. 8-2025 complements this regulation by outlining the procedures for processing income tax credit and refund claims.

Section 5. Manner and Period of Filling

	Processing Office	Approving Office
1. For denial of claims within the National Office, including those signed by Assistant Commissioner (ACIR) - Large Taxpayers Service (LTS)	Appellate Division	Office of the Commissioner of Internal Revenue (OCIR)
2. For denial of claims signed by the Regional Director	Legal Division of the Revenue Region concerned	Regional Director concerned

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 008-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%208-2025.pdf

5. Revenue Regulation No. 009-2025

The Bureau of Internal Revenue (BIR) issued Revenue Regulation (RR) No. 009-2025, dated February 25, 2025. This RR implements pertinent provisions of the Tax Code concerning the taxation of local sales of goods and/or services by Registered Business Enterprises (RBEs). This regulation aims to provide clear guidelines on the tax obligations of Registered Business Enterprises (RBEs). It addresses issues such as the definition of digital transactions, the tax rates applicable, and the registration and reporting requirements for businesses.

"Section 2. Tax Treatment -Local sales of goods and/or services by an RBE shall be subject to 12% Value-Added Tax (VAT), unless otherwise exempt or zero-rated under the Titles IV and XIII of the Tax Code. For avoidance of doubt, local sales shall include sales of goods and services to domestic market enterprises and non-RBEs, regardless of location.

The following mechanisms, therefore, shall be observed:

A. Income Tax Incentives Regime. *All local sales of RBEs shall be subjected to VAT regardless of the income tax regime (i.e., Income Tax Holiday (ITH), 5% Gross Income Earned (GIE)/Special Corporate Income Tax (SCIT), Enhanced Deduction Regime (EDR), or Regular Corporate Income Tax (RCIT).*

B. Location of Sales*. The location of the transaction and the RBE, whether inside the ecozone, freeport or customs territory, such as those Registered Export Enterprises (REEs) registered with the Board of Investments (BOI), are no longer the determining factors in so far as the taxability for local sales of RBEs for VAT purposes is concerned.*

***C. Liability to Pay and Remit VAT**. The liability to pay and remit the VAT to the government rests with the buyer of the goods or services. RA 12066 has shifted to the buyer this liability for local sales of RBEs."*

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 009-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%209-2025.pdf

6. Revenue Regulation No. 010-2025

The Bureau of Internal Revenue (BIR) issued Revenue Regulation (RR) No. 010-2025, dated February 25, 2025. This RR aims to amend specific provisions of RR No. 16-2005 to enhance the implementation of the Value-Added Tax (VAT) system in the Philippines.

As amended, to cover the following provision of the Tax Code:

A. VAT zero-rating under Section 106 (A)(2) for sale of goods,
B. VAT zero-rating under Section 108(B) for sale of services,
C. VAT-exempt transactions under Sections 109(a) and 109(dd); and
D. VAT refund/credit under section 112(C)

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 010-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%2010-2025%20(1).pdf

7. Revenue Regulation No. 011-2025

The Bureau of Internal Revenue (BIR) issued Revenue Regulation (RR) No. 011-2025 dated February 25, 2025. This RR is promulgated to implement Sections 237 and 237-A of the Tax Code, particularly on the issuance of electronic invoices, electronic sales reporting, and additional allowable deduction related thereto.

This RR also clarifies that taxpayers covered under Section 3(A)(1) to (3) have a period of one (1) year from the effectiveness date of these regulations to comply with the electronic invoicing requirements. While all taxpayers who are mandated to comply with the issuance of electronic invoices and Electronic Sales Reporting System requirements must comply upon the establishment of a system capable of storing and processing the required data by the BIR.

For a comprehensive understanding of the specific provisions and their implications, you can refer to the full text of RR No. 011-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%2011-2025.pdf

8. Revenue Regulation No. 012-2025

The Bureau of Internal Revenue (BIR) issued Revenue Regulation (RR) No. 012-2025 dated November 29, 2024. This RR is promulgated to amend the Section of Revenue Regulations No. 3-69, which pertains to the pertinent provision of Section 5(a) and shall include additional provision related to the service of warrants and notices to taxpayers who have resurfaced that were previously identified as Cannot Be Located (CBL).

"Section 5. Due Process Requirements in the Enforcement of Summary remedies

a. ***Service and Execution of Warrants and Notices.*** *The Revenue Office designated to serve the Warrant of Distraint and/or Levy* ***(WDL)*** *shall serve the same personally upon the delinquent taxpayer himself/****herself or his/her authorized representative, or to a member of his/her household of legal age with sufficient discretion, and shall require the same to acknowledge the receipt of the warrant by voluntarily signing his/her name on the receipt portion of the warrant, for individual taxpayer. For corporation, the WDL shall served to the President, Vice President, Manager, Treasurer, or Comptroller or to any responsible person of the corporation who customarily receives correspondent for the corporation. In cases,*** *however where the taxpayer* ***(individual or corporation)*** *refuses to receive the* ***WDL,*** *or is absent from his/****her*** *given address, the* ***WDL*** *shall be* ***constructively served by requiring two(2) credible witnesses who are not BIR employee preferably barangay official, to sign in the acknowledgment receipt portion of the warrant and require a copy of the warrant at the premises of the taxpayer. A copy of the WDL which was previously served constructively shall be sent thru registered mail and/or electronic mail to the delinquent taxpayer.***

c.Service of warrants and notice in case Taxpayer Previously Reported and Published as CBL has Resurfaced. - For purposes of this Section, the term "resurfaced" shall mean that the taxpayer personally appear before any Office of this Bureau of Internal Revenue (BIR), or their whereabouts are known to the BIR through and informant, and other legal means. In such, reapperance, issued WDL, together with the copies of the served Warrants of Garnishment, Notice of Levy, Notice of Tax Lien, Notice of Encumbrance and other correspondences shall be simultaneously served to such delinquent taxpayer or his/her authorized representative."

Regulation shall take effect immediately upon publication in the BIR official Website.

For a comprehensive understanding, you can refer to the full text of RR No. 012-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RR%20No.%2012-2025.pdf

REVENUE MEMORANDUM ORDER

1. Revenue Memorandum Order No. 008-2025

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 008-2025, dated February 19, 2025, to realign inconsistencies on some provisions of RMO No. 025-2024 relative to the verification of the creditable withholding taxes (CWT) claimed by taxpayer

claimants, in relation to process of Tax Credit Certificates or cash refund of excess/unutilized CWT on income under Section 76 (C), in relation to Sections 204 (C) and 229 of the Tax Code.

Below is the amended Section I(6) of RMO No. 25-2024

I. *"General Policies*

6. The burden of proof of withholding is incumbent upon the taxpayer claiming for the income tax credit/refund. No income tax refund shall be granted unless the authenticity and veracity of the BIR Form No. 2307 or BIR Form No. 1606, whichever is applicable, has been verified. To establish such, the following guidelines shall be followed:

a. For BIR Form No. 2307, which is the source of the claimed creditable taxes, it must be established that the corresponding withholding tax was declared and included in the Alphabetical List of Payees filed by the taxpayer-claimant's respective withholding agents in the BIR Form No. 1604-E or 1602-EQ, whichever is applicable; and

b. For BIR Form No. 1606, the taxpayer engaged in real estate business claiming for the creditable taxes withheld has filed and remitted the taxes withheld to the government."

The RMO also clarifies in pursuant to the amended Section II (A)(3)(b)(b.2) of RMO No. 25-2024 with regards to the Request for Data/Documents by the Processing Office that the assigned Revenue Officer shall, within 30 days upon official receipt of the application for income tax credit/refund, request for the pertinent documents/ from the appropriate BIR office in which have 15 to furnish the requested data/document/s

For a comprehensive understanding of amendments, you can refer to the full text of RMO No. 008-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMO%20No.%208-2025.pdf

2. Revenue Memorandum Order No. 009-2025

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 009-2025, dated February 14, 2025, to facilitate the proper identification and monitoring of payment for creditable withholding tax pursuant to the issuance of Revenue Regulations (RR) No. 2-1998, the following ATCs are hereby created:

ATC	DESCRIPTION	TAX RATE	LEGAL BASIS	BIR FORM NO.
WI559 WC559	Sale of Residential House and Lot and Other Residential Dwellings Individual Corporate	5%	RR No. 2-1998	1606/2307
WI560 WC560	Sale of Real Property Classified as Ordinary Assets of the Sellers/Transferor Other than Sale	6%	RR No. 2-1998	1606/2307

	of Residential House and Lot and Other Residential Dwellings Individual Corporate			

For a comprehensive understanding, you can refer to the full text of RMO No. 009-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMO%20No.%209-2025.pdf

3. *Revenue Memorandum Order No. 010 – 2025*

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 010-2025, dated January 31, 2025, prescribing the policies, guidance and procedure on the implementation and use of BIR internet service by authorized users to prevent misuse, ensure confidentiality and protection of data, maintain productivity, and safeguard the agency's reputation. Important information that the RMO clarify are the permitted use of BIR internet services, prohibited sites to access, and the request process.

For a comprehensive understanding of the policies and guidelines, you can refer to the full text of RMO 010-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMO%20No.%2010-2025.pdf

4. *Revenue Memorandum Order No. 011-2025*

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order (RMO) No. 011-2025, dated January 28, 2024, to prescribe the use of the revised BIR Form No. 0044 (Request for System Access/Access Revocation Form – Annex A) as a result of the ISO Certification initiative of the Information Systems Group.

Below is the summary of changes:

BIR Form 0044 Revised February, 2021 (OLD)	BIR Form 0044 Revised February, 2025 (NEW)
Header: • BIR Logo • Revised February, 2021	Header: • New BIR Logo: Bringing in Revenue for Nation Building • Revised February, 2025 • Added QF-SA-001 (for ISO Certification)
Item 4: Office Specify Office/Division	Item 4: Office • Deleted Specify Section and Include it under Specify Office / Division • Added TIN (If applicable)

Item 13: Application / System	Item 13: Process Owner • Added Process Owner: Approved and Disapproved for special access with signature over printed name, date and remark portion
Item 14: ITS Server	Item 14: Application / System / Servers • Added Servers
	Item 15 to 18 • Renumbered

For a comprehensive understanding, you can refer to the full text of RMO No. 011-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMO%20No.%2011-2025.pdf

5. ***Revenue Memorandum Order No. 012-2025***

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Order No. 012-2025, dated March 06, 2025 as an action to update the existing quality forms and certain policies and procedures prescribed under Operation Memorandum (OM) Nos. 32-2023 and 41-2023 in relation to the expansion of Internal Organization for Standardization (ISO) 9001:2015 Quality Management System (QMS) for One-Time Transaction (ONETT).

For a comprehensive understanding of the updated policies and detailed procedures in processing ONETT, you can refer to the full text of RMO No. 012-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMO%20No.%2012-2025.pdf

REVENUE MEMORANDUM CIRCULARS (RMC)

1. ***Revenue Memorandum Circular No. 013-2025***

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 013-2025, dated February 7, 2025. Pursuant to Proclamation No. 486 S. 2024, declaring the month of February every year as the "Tax Awareness Month." The RMC is issued to enjoin all agencies of the government, local government units, academic institutions, state universities and colleges, non-government organizations, multi-sectoral partners and the private sector at the national and local level to actively participate and support the activities that shall be undertaken by the BIR to promote and enhance taxpayers' awareness of the importance of paying the correct taxes on time.

The 2025 Tax Campaign Theme is "Buwis na Tapat, Tagumpay Nating Lahat" launched during the 2025 BIR National Tax Campaign Kick-off last February 4, 2025.

For a comprehensive understanding of the guidelines to attain the objectives of RMC No. 013-2025, you can refer to the full text, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMC%20No.%2013-2025.pdf

2. Revenue Memorandum Circular No. 014-2025

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 014-2025, dated February 19, 2025. The RMC is issued to provide clarifications and realign inconsistencies on certain provisions of RMC No. 75-2024 relative to the mandatory requirements for Tax Credit Certificates or cash refund of excess/unutilized CWT on income under Section 76(C), in relation to Sections 204(C) and 229 of the Tax Code.

Key Points on the Clarification to certain provisions and requirements:

1. Requirement of original copies for BIR Form 2307

    a. Transmission of documents such as the BIR Form No. 2307 is not limited to the physical delivery of documents from the sender to the receiver.
    b. The copies produced and submitted by the recipient of BIR Form No.2307 may not necessarily be the original copy.
    c. Third item in Annex A.1 shall now read as: "Copies of duly accomplished Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) or Withholding Tax Remittance Return for Onerous Transfer of Real Property Other than Capital Asset (BIR Form No. 1606), whichever is applicable, issued by the payor (withholding agent) to the payee.

2. Requirement of original Copy of BIR Form No. 1606 if the taxpayer claimant is engaged in real estate business.
    a. Not required. The processing office is mandated to verify the return from the BIR database.
    b. Reproduction of the original copy of the said form will suffice.

3. Basis of claim for individual taxpayer who incurred unutilized CWT and intends for refund or credit.
    a. Tax Code - Sec. 58. Return and Payment of Taxes withheld at Source

4. A new set of documentary requirements is required for individual taxpayer-claimants.
    b. Yes, a new set of mandatory requirements will be prescribed for individual taxpayers who intend to claim for tax credit or refund unutilized CWT pursuant to Section 58(E), in relation to Section 204 of the Tax Code.

5. Implication to the claim of tax returns filed after filing of the income tax credit/refund claim or the issuance of the Electronic Letter of Authority (eLA).
    a. Once the claim for income tax credit has been filed or an eLA has been issued covering the same period of the claim, the taxpayer-claimant is already precluded from amending the tax return.

The RMC shall take effect immediately.

For a comprehensive understanding of the clarification to certain provisions and requirements, you can refer to the full text of RMC 014-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMC%20No.%2014-2025.pdf

3. Revenue Memorandum Circular No. 015-2025

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 015-2025, dated February 25, 2025. The RMC is issued to inform all concerned taxpayers that the Alphalist Data Entry and Validation Module Version 7.4 is now available for use and be downloaded from the website of the BIR at www.bir.gov.ph. This new version comprises the newly created alphanumeric tax codes and updated rates for transactions under the creditable and final withholding taxes.

Deadline of submission of the alphalist for taxable year 2024 under BIR Form Nos. 1604C, 1604F, 1601EQ, and 1601FQ is thirty (3) days immediately after the posting of this circular (RMC No. 015-2025). While previously submitted alphalists using the old version of 7.3 data entry module and with error reply to messages for the eSubmission facility of the BIR, shall re-submit within the same deadline and with the upgraded version of the module.

For a comprehensive understanding, you can refer to the full text of RMC No. 015-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMC%20No.%2015-2025.pdf

4. Revenue Memorandum Circular No. 016-2025

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 016-2025, dated February 26, 2025. The RMC is issued to reiterate and modify RMC No. 97-2023 which reminds everyone, particularly those who are running as candidates or participating in any other on May 12. 2025 National and Local Elections, of their obligations under pertinent revenue issuances.

For a comprehensive understanding of the obligations for candidates, you can refer to the full text of RMC No. 016-2025, available through this link: https://bir-cdn.bir.gov.ph/BIR/pdf/RMC%20No.%2016-2025.pdf

SECURITIES AND EXCHANGE COMMISSION

1. SEC OGC Opinion No. 25-01

The Office of the General Counsel (OGC) of the Securities and Exchange Commission (SEC) released on its website SEC OGC Opinion No. 25-01 dated February 10, 2025, regarding the capacity of a foreign Chinese national stockholder who is responsible for strategic decision affecting the business and exercising executive control to sit as a President of PTO Air Express Corp.

Below is the summary of the OGC opinion:

a. A director of a corporation, possessing all the qualifications and none of the disqualification under the Revised Corporation Code of the Philippines which does not expressly contain a citizenship nor residency requirement for a president of a corporation, as well as other laws like the Anti-Dummy Law (Section 2-A of the Commonwealth Act No.108) who prohibits alien interference to corporation whose activities are reserved for Filipinos, and lastly, the by-laws. Absence of a disqualification and possession of all the qualification under the aforementioned laws, a director may sit as the President of a corporation, provided that he/she must not concurrently hold the positions of Secretary or Treasurer.

b. It is necessary to examine the corporation's purpose clause to determine whether the activities listed are nationalized or partly nationalized which could be a warrant to the application of the restriction under Section 2-A of the Anti-Dummy Law.

   Upon analysis of the corporation in subject is engage in the business in cargo and freight forwarding both domestic and international, it also concluded that the business is an air freight forwarder from its own corporation name. Which under CAB guidelines Implementing (C.A.) No. 146 as Amended by (R.A.) No. 11659, otherwise known as the (PSA), limitation of foreign ownership and participation of foreign investors in the governing body of airfreight forwarders are no longer applicable.

For a comprehensive understanding of the case and opinion, you can refer to the full text of SEC OGC Opinion No. 25-01, available through this link: https://www.sec.gov.ph/opinion-2025/sec-ogc-opinion-no-25-01re-capacity-to-sit-as-president/#gsc.tab=0

2. SEC OGC Opinion No. 25-02

The Office of the General Counsel (OGC) of the Securities and Exchange Commission (SEC) released on its website SEC OGC Opinion No. 25-02 dated February 10, 2025, regarding the qualification and disqualifications of independent directors.

Below is the summary of the OGC opinion:

a. The examination of the duties of a hospital consultant must be conducted to be able to determine whether the engagement of an independent director as a hospital consultant is prohibited or covered by the exemption. It gave emphasis that given the nature of the work for both hospital consultant and independent director, there should be a prevention in the possibility of conflict of interest and balancing of competing demand of the corporation.

b. The commission is of the opinion that a hospital consultant is not qualified to be an independent director of the corporation operating the same hospital, in a case

that it happened the hospital consultant shall be disqualified to hold the position of independent director.

For a comprehensive understanding of the case and opinion, you can refer to the full text of SEC OGC Opinion No. 25-02, available through this link: https://www.sec.gov.ph/opinion-2025/opinion-no-25-02re-qualifications-and-disqualifications-of-independent-directors/#gsc.tab=0

3. SEC OGC Opinion No. 25-03

The Office of the General Counsel (OGC) of the Securities and Exchange Commission (SEC) released on its website SEC OGC Opinion No. 25-03 dated February 10, 2025, regarding the engagement in E-Commerce vis-à-vis Retail Trade Act.

Below is the summary of the OGC opinion:

a. Launching an E-Commerce platform – Placing orders and payment arrangements by potential customers through an E-Commerce platform that complements the single outlet of the business already constitutes a retail trade as the presence of E-Commerce broaden the reach of potential customers which is contradicting to a rationale of a single outlet sales.
b. As the power of corporation is granted by its Article of Incorporation (AOI), in cases that the selling of through an E-Commerce platform transcend the primary purpose of the corporation, it shall amend its AOI accordingly.

For a comprehensive understanding of the case and opinion, you can refer to the full text of SEC OGC Opinion No. 25-03, available through this link: https://www.sec.gov.ph/opinion-2025/opinion-no-25-03re-engagement-in-e-commerce-vis-a-vis-retail-trade-act/#gsc.tab=0

FISCAL INCENTIVES REVIEW BOARD

1. FIRB Advisory 001-2025

The Fiscal Incentives Review Board published FIRB advisory No. 001-2025 circulating the Implementing Rules and Regulations of Title XIII of Republic Act No. 8424 otherwise known as the "National Internal Revenue Code of 1997," as amended by Republic Act No. 12066.

Stated in the advisory that the CREATE MORE IRR was signed on February 17, 2025, which took effect upon its publication in The Philippine STAR last February 20, 2025.

Below is the pertinent links provided in the advisory:

a. Electronic copy of the CREATE MORE IRR
   - https://firb.gov.ph/download/create-more-act-irr/
b. Information, Education, and Communication (IEC) materials by FIRB Secretariat
   - https://firb.gov.ph/resources/create-more/