

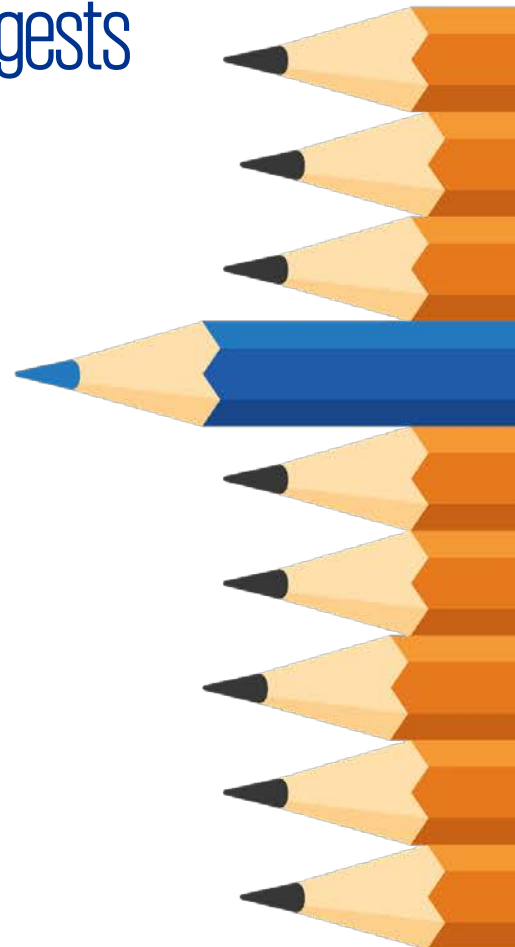


Tax Supplements for the 2019 BAR Examination

APPENDIX: TYE2018 Tax Case Digests

R.G. Manabat & Co.

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JURISPRUDENCE

Local Government Units (LGUs) are entitled to an equitable share in the proceeds of the utilization and development of national wealth within their respective areas. The 1987 Constitution conferred on LGUs the power to create its own sources of revenue and the right to share not only in the national taxes, but also in the proceeds of the utilization of national wealth in their respective areas. LGUs shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction. Territorial jurisdiction refers to the LGU's territorial boundaries. (*Republic of the Philippines, represented by Raphael P.M. Lotilla, Secretary, Department of Energy (DOE), et al. vs. Provincial Government of Palawan, represented by Governor Abraham Kahlil B. Mitra/Bishop Pedro Dulay Arigo, et al. vs. Hon. Executive Secretary Eduardo R. Ermita, et al., G.R. No. 170867/185941, 04 December 2018*)

Sale of refined sugar not exempt from Value-Added Tax (VAT). Sale of sugar, however, whether raw or refined, made by an agricultural cooperative to its members or non-members is VAT-exempt. While the sale of raw sugar, by express provision of law, is exempt from VAT, the sale of refined sugar, on the other hand, is not exempted as refined sugar already underwent several refining processes and as such, is no longer considered to be in its original state. However, if the sale of sugar, whether raw or refined, was made by an agricultural cooperative to its members or non-members, such transaction is still VAT-exempt. Exemption from the payment of VAT on sales made by the agricultural cooperatives to members or to non-members necessarily includes exemption from the payment of "advance VAT" upon the withdrawal of the refined sugar from the sugar mill. (*Commissioner of Internal Revenue vs. Negros Consolidated Farmers Multi-*

Purpose Cooperative, G.R. No. 212735, 05 December 2018)

Philippine Economic Zone Authority (PEZA) incentives. PEZA-granted incentives shall apply only to registered operations of the Ecozone Enterprise and only during its registration with PEZA. The registration of an activity with PEZA is an essential requirement to enjoy tax incentives under the law. Only income actually gained or received by the Ecozone Enterprise related to the conduct of its registered business activity are covered by fiscal incentives. (*Commissioner on Internal Revenue vs. J.P. Morgan Chase Bank, N.A. - Philippine Customer Care Center, G.R. No. 210528, 28 November 2018*)

Government owned real property is exempt from real property tax (RPT) except when the beneficial use of the real property is granted to a taxable person. The general rule is that any real property owned by the Republic or its political subdivisions is exempt from the payment of RPT except when the beneficial use of the real property was granted to a taxable person. Executive Order No. 596 categorizes Metropolitan Waterworks and Sewerage System (MWSS) as a government instrumentality vested with corporate powers. Republic Act No. 10149 or the GOCC Governance Act of 2011 adopted the same categorization and explicitly lists MWSS as exempt from the payment of RPT. Thus, the real properties of the MWSS is exempt from real properties taxes, except if the beneficial use of its properties has been extended to a taxable person. (*Metropolitan Waterworks and Sewerage System vs. The Local Government of Quezon City, City Treasurer of Quezon City, City Assessor of Quezon City, Sangguniang Panlungsod ng Quezon City and City Mayor of Quezon City, G.R. No. 194388, 07 November 2018*)

The injunctive relief is not available as a remedy to assail the collection of a tax. Section 218 of the NIRC, as amended, provides that no court shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by the NIRC. Also, decisions or rulings of the Commissioner of Internal Revenue, among others, assessing any tax, or levying, or distraining, or selling any property of taxpayers for the satisfaction of

their tax liabilities are immediately executory, and their enforcement is not to be suspended by any appeals thereof to the Court of Tax Appeals (CTA) unless in the opinion of the CTA the collection by the BIR or the Commissioner of Customs may jeopardize the interest of the Government and/or the taxpayer, in which case the CTA at any stage of the proceeding may suspend the said collection and require the taxpayer either to deposit the amount claimed or to file a surety bond for not more than double the amount. The adequate remedy upon receipt of the Final Decision on Disputed Assessment (FDDA) was not the action for declaratory relief but an appeal taken in due course to the CTA. (*Commissioner of Internal Revenue v. Standard Insurance Co., Inc.*, G.R. No. 219340, 07 November 2018)

Protest of local tax assessment. If the taxpayer receives an assessment and does not pay the tax, its remedy is strictly confined to Section 195 of the Local Government Code (LGC). Thus, it must file a written protest with the local treasurer within 60 days from the receipt of the assessment. If the protest is denied, or if the local treasurer fails to act on it, then the taxpayer must appeal the assessment before a court of competent jurisdiction within 30 days from receipt of the denial, or the lapse of the 60-day period within which the local treasurer must act on the protest.

In its court action, the taxpayer may, at the same time, question the validity and correctness of the assessment and seek a refund of the taxes it paid. Once the assessment is set aside by the court, it follows as a matter of course that all taxes paid under the erroneous or invalid assessment are refunded to the taxpayer.

If no assessment notice is issued by the local treasurer, and the taxpayer claims that it erroneously paid a tax, fee, or charge, or that the tax, fee, or charge has been illegally collected from him, then Section 196 applies.

Entitlement to tax refund. To be entitled to a refund under Section 196 of the LGC, the taxpayer must comply with the following procedural requirements: first, file a written claim for refund or credit with the local treasurer; and second, file a judicial case for refund within two (2) years from the payment of the

tax, fee, or charge, or from the date when the taxpayer is entitled to a refund or credit. (*International Container Terminal Services, Inc. Vs. The City of Manila*, GR No. 185622, 17 October 2018)

Applicability of the Aichi ruling in claims for tax refund. The petitioner filed its administrative and judicial claims for refund on April 13, 2004 and April 22, 2004, respectively. Both claims were filed after BIR Ruling No. DA-489-03 was issued on December 10, 2003, but before the promulgation of the Aichi pronouncement on October 06, 2010. Thus, notwithstanding the petitioner's having filed its judicial claim without waiting for the decision of the respondent or for the expiration of the 120-day mandatory period, the CTA could still take cognizance of the claims because they were filed within the period exempted from the mandatory and jurisdictional 120-30 period rule. (*Kepeco Ilijan Corporation Vs. Commissioner of Internal Revenue*, GR No. 205185, 26 September 2018)

- *Note: For reference purposes, amendments introduced by the TRAIN law and as implemented by RMC No. 47-2019 would make the San Roque and Aichi rulings inapplicable moving forward.*

Exemption for non-compliance with the requisites of a valid waiver. As a general rule a waiver that did not comply with the requisites for validity as specified in RMO No. 20-90 and RDAO 01-05 is considered invalid and ineffective to extend the prescriptive period to assess the deficiency taxes. Notwithstanding the non-compliance, the Supreme Court treated the case as an exception to the rule and considered the waivers as valid for the following reasons, viz: (a) Parties are in pari delicto or "in equal fault"; (b) Parties who do not come to court with clean hands cannot be allowed to benefit from their own wrongdoing. Following the foregoing principle, respondent should not be allowed to benefit from the flaws in its own Waivers and successfully insist on their invalidity in order to evade its responsibility to pay taxes; (c) One of the parties is estopped from questioning the validity of its Waivers; and (d) Negligence in the execution of the waiver. (*Asian Transmission Corporation Vs. Commissioner of Internal Revenue*, GR No. 230861, 19 September 2018)

Exhaustion of administrative remedies doctrine.

The exhaustion of administrative remedies doctrine requires that before a party may seek intervention from the court, he or she should have already exhausted all the remedies at the administrative level. The LGC provides two (2) remedies in relation to RPT assessments or tax ordinances. These are: (1) Sections 226 and 252 thereof which allow a taxpayer to question the reasonableness of the amount assessed before the city treasurer then appeal to the Local Board of Assessment Appeals; and (2) Section 187 thereof which allows an aggrieved taxpayer to question the validity or legality of a tax ordinance by duly filing an appeal before the Secretary of Justice before seeking judicial intervention. However, the rule on administrative exhaustion admits of exceptions, one of which is when strong public interest is involved.

Hierarchy of courts doctrine. The hierarchy of courts doctrine prohibits parties from directly resorting to the Supreme Court when relief may be obtained before the lower courts. Nevertheless, this doctrine is not an iron-clad rule; it also admits of exceptions, such as when the case involves matters of transcendental importance and that it would serve as a test case for the guidance of other LGUs in crafting ordinances. These circumstances allow the Court to set aside the technical defects and take primary jurisdiction over the petition, stressing that "[t]his is in accordance with the well-entrenched principle that rules of procedure are not inflexible tools designed to hinder or delay, but to facilitate and promote the administration of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate, rather than promote substantial justice, must always be eschewed." (*Alliance of Quezon City Homeowners' Association, Inc. Vs. The Quezon City Government, represented by Hon. Mayor Herbert Bautista, Quezon City Assessor's Office and Quezon City Treasurer's Office, GR No. 230651, 18 September 2018*)

Due Process. Notice of sale to the delinquent land owners and to the public in general is an essential and indispensable requirement of law, the non-fulfillment of which vitiates the sale. Thus, the holding of a tax sale despite the absence of the requisite notice is tantamount to a violation of delinquent taxpayer's substantial right to due process. Administrative

proceedings for the sale of private lands for nonpayment of taxes being in personam, it is essential that there be actual notice to the delinquent taxpayer, otherwise the sale is null and void although preceded by proper advertisement or publication. (*Noemi S. Cruz and Heirs of Hermenegildo T. Cruz, represented by Noemi S. Cruz Vs. City of Makati, City Treasurer of Makati, The Register of Deeds of Makati, Laverne Realty and Development Corporation, GR No. 210894, 12 September 2018*)

Tax delinquency. The personal liability for tax delinquency is generally on whoever is the owner of the real property at the time the tax accrues. This is a necessary consequence that proceeds from the fact of ownership. Nonetheless, where the tax liability is imposed on the beneficial use of the real property, such as those owned but leased to private persons or entities by the government, or when the assessment is made on the basis of the actual use thereof, the personal liability is on any person who has such beneficial or actual use at the time of the accrual of the tax. Beneficial use means that the person or entity has the use and possession of the property. Actual use refers to the purpose for which the property is principally or predominantly utilized by the person in possession thereof.

Jurisdiction of the CTA. Under Section 7 (a) (3) of R.A. No. 9282, the appellate jurisdiction of the CTA over decisions, orders, or resolutions of the RTC becomes operative when the latter has ruled on a local tax case (i.e., one which is in the nature of a tax case or which primarily involves a tax issue). Local tax cases include those involving RPT. Among the possible issues are the legality or validity of the RPT assessment; protests of assessments; disputed assessments, surcharges, or penalties; legality or validity of a tax ordinance; claims for tax refund/credit; claims for tax exemption; actions to collect the tax due; and even prescription of assessments.

If the taxpayer fails to appeal in due course, the right of the local government to collect the taxes due with respect to the property becomes absolute upon the expiration of the period to appeal. The assessment becomes final, executory and demandable, precluding the taxpayer from assailing the legality/validity (or

reasonableness/correctness) of the assessment. (*Herarc Realty Corporation Vs. The Provincial Treasurer of the Batangas, et al., GR No. 210736, 05 September 2018*)

Irrevocability rule in claiming for the refund of its excess and/or unutilized creditable withholding tax.

Under the irrevocability rule, once the option to carry over and apply the excess quarterly income tax against income tax due for the taxable years of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor. The irrevocability rule takes effect when the option is exercised – the marking of the box "to be refunded" in the annual ITR constituted its exercise of the option. (*RHOMBUS ENERGY, INC., Petitioner, v. CIR, G.R. No. 206362, 01 August 2018*)

Benefit of invoking BIR Ruling No. DA-489-03. As held in *San Roque*, BIR Ruling No. DA-489-03 is a general interpretative rule. Thus, all taxpayers can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on 6 October 2010, where this Court held that the 120+30-day periods are mandatory and jurisdictional. To provide jurisprudential stability, it is best to apply the benefit of BIR Ruling No. DA-489-03 to all taxpayers who filed their judicial claims within the window period from 10 December 2003 until 6 October 2010. (*San Roque Power Corporation v CIR, G.R. No. 203249 23 July 2018*)

Sales invoices and documents other than official receipts are not proper in substantiating zero-rated sales of services in connection with a claim for refund.

VAT official receipts are indispensable to prove sales of services by a VAT-registered taxpayer. When a VAT-taxpayer claims to have zero-rated sales of services, it must substantiate the same through valid VAT official receipts, not any other document, not even a sales invoice which properly pertains to a sale of goods or properties. A VAT invoice is necessary for every sale, barter or exchange of goods or properties while a VAT official receipt properly pertains to every lease of goods or properties, and for every sale, barter or exchange of

services. Thus, a VAT invoice and a VAT receipt should not be confused as referring to one and the same thing; the law did not intend the two to be used alternatively. (*Nippon Express (Philippines) Corporation Vs. Commissioner of Internal Revenue, GR No. 191495, 23 July 2018*)

Civil action filed by the petitioner to question the FDDA is not deemed instituted with the criminal case for tax evasion.

Rule 111, Section 1(a) of the Rules of Court provides that what is deemed instituted with the criminal action is only the action to recover civil liability arising from the crime. Civil liability arising from a different source of obligation, such as when the obligation is created by law, such civil liability is not deemed instituted with the criminal action.

It is well-settled that the taxpayer's obligation to pay the tax is an obligation that is created by law and does not arise from the offense of tax evasion, as such, the same is not deemed instituted in the criminal case.

Non-payment of docket fees does not merit the automatic dismissal of a Petition for Review before the CTA.

Basic is the rule that the payment of docket and other legal fees is both mandatory and jurisdictional. The court acquires jurisdiction over the case only upon the payment of the prescribed fees. However, the mere failure to pay the docket fees at the time of the filing of the complaint, or in this case the *Petition for Review Ad Cautelam*, does not necessarily cause the dismissal of the case. While the court acquires jurisdiction over any case only upon the payment of the prescribed docket fees, its nonpayment at the time of filing of the initiatory pleading does not automatically cause its dismissal so long as the docket fees are paid within a reasonable period; and that the party had no intention to defraud the government. (*Macario Lim Gaw, Jr. v. Commissioner of Internal Revenue, GR No. 222837, July 23, 2018*)

BIR cannot issue collection letters without assessment notices.

The rule is that taxes must be collected reasonably and in accordance with the prescribed procedure. In the normal course of tax administration and enforcement, the BIR must first make an assessment then enforce the collection of the amounts so assessed. An assessment is not an action

or proceeding for the collection of taxes. It is a step preliminary, but essential to warrant distraint, if still feasible, and, also, to establish a cause for judicial action. The BIR may summarily enforce collection only when it has accorded the taxpayer administrative due process, which vitally includes the issuance of a valid assessment. A valid assessment sufficiently informs the taxpayer in writing of the legal and factual bases of the said assessment, thereby allowing the taxpayer to effectively protest the assessment and adduce supporting evidence in its behalf.

The BIR may validly enforce collection through judicial action even without an assessment.

Unlike summary administrative remedies, the government's power to enforce the collection through judicial action is not conditioned upon a previous valid assessment. The NIRC expressly allows the institution of court proceedings for collection of taxes without assessment within five years from the filing of the tax return and 10 years from the discovery of falsity, fraud, or omission, respectively. A judicial action for the collection of a tax is begun: (a) by the filing of a complaint with the court of competent jurisdiction, or (b) where the assessment is appealed to the CTA, by filing an answer to the taxpayer's petition for review wherein payment of the tax is prayed for. Judicial action however must be done within the prescriptive period for collection. (*Commissioner of Internal Revenue Vs. Pilipinas Shell Petroleum Corporation/Commissioner of Internal Revenue Vs. Pilipinas Shell Petroleum Corporation and Petron Corporation, GR Nos. 197945 / 204119-20, July 9, 2018*)

Revenue Memorandum Order (RMO) No. 23-2014 did not go beyond the provisions of the NIRC, as amended, to impose new or additional taxes to allowances, benefits or bonuses granted to government employees.

The assailed RMO do not charge any new or additional tax. On the contrary, they merely mirror the relevant provisions of the NIRC, as amended, and its implementing rules on the withholding tax on compensation income and simply reinforce the rule that every form of compensation for personal services received by all employees arising from an employer-employee relationship is deemed subject to income tax and, consequently, to

withholding tax, unless specifically exempted or excluded by the NIRC

Section VVI of RMO No. 23-2014 is valid while Section VI thereof is partly invalid insofar as it defines new offenses and prescribe penalties therefor, particularly upon government officials.

With respect to Section VI of the assailed RMO, the CIR overstepped the boundaries of its authority to interpret existing provisions of the NIRC, as amended. Nowhere in the NIRC would one find the Provincial Governor, Mayor, Barangay Captain and the Head of Government Office or the "Official holding the highest position (such as the President, Chief Executive Officer, Governor, General Manager)" in an Agency or GOCC as one of the officials required to deduct, withhold and remit the correct amount of withholding taxes. The CIR, in imposing upon these officials the obligation not found in law nor in the implementing rules, did not merely issue an interpretative rule designed to provide guidelines to the law which it is in charge of enforcing; but instead, supplanted details thereon — a power duly vested by law only to respondent Secretary of Finance.

Elements of a valid tax. Taxes are the enforced proportional contributions exacted by the State from persons and properties pursuant to its sovereignty in order to support the Government and to defray all the public needs. Every tax has three elements, namely: (a) it is an enforced proportional contribution from persons and properties; (b) it is imposed by the State by virtue of its sovereignty; and (c) it is levied for the support of the Government. (*Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al. Vs. Commissioner, Bureau of Internal Revenue and the Secretary, Department of Finance/Judge Armando A. Yanga and Cristina Carmela I. Japzon Vs. Hon. Commissioner Kim S. Jacinto-Henares; G.R. Nos. 213446 / 213658; 3 July 2018*)

Congress can validly exclude taxes that will constitute the base amount for the computation of the Internal Revenue Allotment only if a Constitutional provision allows such exclusion.

Even assuming that Section 284 of the LGC is erroneous since it does not authorize any exclusion or

deduction from the collections of the national internal revenue taxes (NIRTs) for purposes of the computation of the allocations to the LGUs. The Supreme Court enumerates the national taxes to be included, but shall not be limited to, in the base for computing the just share the LGUs: (1) The NIRTs enumerated in Section 21 of the NIRC, as amended, to be inclusive of the VA Ts, excise taxes, and DSTs collected by the BIR and the BOC, and their deputized agents; (2) Tariff and customs duties collected by the BOC; (3) 50% of the VATs collected in the ARMM, and 30% of all other national taxes collected in the ARMM; the remaining 50% of the VA Ts and 70% of the collections of the other national taxes in the ARMM shall be the exclusive share of the ARMM pursuant to Section 9 and Section 15 of R.A. No. 9054; (4) 60% of the national taxes collected from the exploitation and development of the national wealth; the remaining 40% will exclusively accrue to the host LGUs pursuant to Section 290 of the LGC; (5) 85% of the excise taxes collected from locally manufactured Virginia and other tobacco products; the remaining 15% shall accrue to the special purpose funds pursuant created in R.A. No. 7171 and R.A. No. 7227; (6) The entire 50% of the national taxes collected under Section 106, Section 108 and Section 116 of the NIRC in excess of the increase in collections for the immediately preceding year; and, (7) 5% of the franchise taxes in favor of the national government paid by franchise holders in accordance with Section 6 of R.A. No. 6631 and Section 8 of R.A. No. 6632. (*Congressman Hermilando I. Mandanas, et.al. v. Executive Secretary, et.al. G.R. No. 199802, 03 July 2018*)

Motion for Reconsideration or New Trial is mandatory. The filing of a motion for reconsideration or new trial to question the decision of a division of the CTA is mandatory. An appeal brought directly to the CTA En Banc is dismissible for lack of jurisdiction.

Protest of local tax assessment. In local taxation, an assessment for deficiency taxes made by the local government unit may be protested before the local treasurer without necessity of payment under protest. But if payment is made simultaneous with or following a protest against an assessment, the taxpayer may subsequently maintain an action in court, whether as an appeal from assessment or a claim for refund, so

long as it is initiated within thirty (30) days from either decision or inaction of the local treasurer on the protest. (*City of Manila and Office of the City Treasurer of Manila Vs. Cosmos Bottling Corporation; G.R. No. 196681; 27 June 2018*)

Bases Conversion and Development Authority (BCDA). It is clear that the BCDA is neither a stock nor a non-stock corporation but is a government instrumentality vested with corporate powers. Under Section 21, 22(23) Rule 141 of the Rules of Court, agencies and instrumentalities of the Republic of the Philippines are exempt from paying legal or docket fees. Hence, BCDA is exempt from the payment of docket fees. (*Bases Conversion and Development Authority Vs. Commissioner of Internal Revenue; G.R. No. 205925; 20 June 2018*)

Claim for creditable withholding tax refund. The requisites for claiming a refund of excess creditable withholding taxes are: (1) the claim for refund was filed within the two-year prescriptive period; (2) the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount of tax withheld therefrom; and (3) the income upon which the taxes were withheld was included in the income tax return of the recipient as part of the gross income. (*Commissioner of Internal Revenue Vs. Cebu Holdings, Inc.; G.R. No. 189792; 20 June 2018*)

Importance of proving the release, mailing or sending of the notice. While assessments are upheld as made when notices are sent within the prescribed period, even if received by the taxpayer after its expiration, this ruling makes it the more imperative that the release, mailing, or sending of the notice be clearly and satisfactorily proved by the BIR. Mere notations made without the taxpayer's intervention, notice, or control, without adequate supporting evidence, cannot suffice; otherwise, the taxpayer would be at the mercy of the revenue offices, without adequate protection or defense. Thus, the failure of petitioner to prove the receipt of the assessment by respondent would necessarily lead to the conclusion that no assessment was issued. (*Commissioner of Internal Revenue Vs. Bank of the Philippine Islands; G.R. No. 224327, 11 June 2018*)

The CTA has exclusive jurisdiction to enjoin the levy of taxes and to auction off a taxpayer's properties in relation to that case for tax cases pending on appeal.

Urgency does not remove the Central Board of Assessment Appeals decision from the exclusive appellate jurisdiction of the CTA. (*Philippine Ports Authority Vs. The City of Davao, Sangguniang Panglungsod ng Davao City, City Mayor of Davao City, City Treasurer of Davao City, City Assessor of Davao City, and Central Board of Assessment Appeals (CBAA); G.R. No. 190324; 6 June 2018*)

Jurisdiction of the CTA. In order for the CTA to acquire jurisdiction over a judicial claim for refund or tax credit arising from unutilized input VAT, the said claim must first comply with the mandatory 120+30-day waiting period. Any judicial claim for refund or tax credit filed in contravention of said period is rendered premature, depriving the CTA of jurisdiction to act on it. [*Team Sual Corporation (formerly Mirant Sual Corporation) v. Commissioner of Internal Revenue G.R. Nos. 201225-26 (From CTA-EB Nos. 649 & 651), 18 April 2018*]

Claim for VAT refund. For a judicial claim for VAT refund to prosper, the claim must not only be filed within the mandatory 120+30-day periods. The taxpayer must also prove the factual basis of its claim and comply with the invoicing requirements of the NIRC, as amended, and other appropriate revenue regulations. Input VAT payments on local purchases of goods or services must be substantiated with VAT invoices or official receipts, respectively. [*Team Energy Corporation (Formerly Mirant Pagbilao Corporation and Southern Energy Quezon, Inc.) v. Commissioner of Internal Revenue, G.R. No. 197663/ G.R. No. 197770, 14 March 2018*]

Overpayment of income tax. When a corporation overpays its income tax liability as adjusted at the close of the taxable year, it has two options: (1) to be refunded or issued a tax credit certificate, or (2) to carry over such overpayment to the succeeding taxable quarters to be applied as tax credit against income tax due. Once the carry-over option is taken, it becomes irrevocable such that the taxpayer cannot later on

change its mind in order to claim a cash refund or the issuance of a tax credit certificate of the very same amount of overpayment or excess Tax credit. The irrevocability is limited only to the option of carry-over such that a taxpayer is still free to change its choice after electing a refund of its excess tax credit. But once it opts to carry over such excess creditable tax, after electing refund or issuance of tax credit certificate, the carry-over option becomes irrevocable. Accordingly, the previous choice of a claim for refund, even if subsequently pursued, may no longer be granted. (*University Physicians Services Inc. Management, Inc. v. Commissioner of Internal Revenue, G.R. No. 205955, 07 March 2018*)

Franchise tax imposed by a municipality is null and void.

Under the Local Government Code, a municipality is bereft of authority to levy and impose franchise tax on franchise holders within its territorial jurisdiction. That authority belongs to provinces and cities only. A franchise tax levied by a municipality is, thus, null and void. The nullity is not cured by the subsequent conversion of the municipality into a city. (*City of Pasig and Crispina V. Salumbre v. Manila Electric Company, G.R. No. 181710, 07 March 2018*)

Tax amnesty. R.A. No. 9480 governs the tax amnesty program for national internal revenue taxes for the taxable year 2005 and prior years. Subject to certain exceptions, a taxpayer may avail of this program by complying with the documentary submissions to the BIR and thereafter, paying the applicable amnesty tax. Upon the taxpayer's full compliance with these requirements, the taxpayer is immediately entitled to the enjoyment of the immunities and privileges of the tax amnesty program. But when: (a) the taxpayer fails to file a SALN and the Tax Amnesty Return; or (b) the net worth of the taxpayer in the SALN as of December 31, 2005 is proven to be understated to the extent of 30% or more, the taxpayer shall cease to enjoy these immunities and privileges. (*Commissioner of Internal Revenue v. Covanta Energy Philippine Holdings, Inc., G.R. No. 203160, 24 January 2018*)

Proof for tax refund. To claim a refund, taxpayer needs only to prove that taxes were withheld. Taxes withheld by the withholding agent are deemed to be the full and final payment of the income tax due from



the income earner or payee. Certificates of Final Taxes Withheld issued by the Agent Banks are sufficient evidence to establish the withholding of the taxes. Considering that PAL presented sufficient proof that: (i) it is exempted from paying withholding taxes; (ii) amounts were withheld and deducted from its accounts; (iii) and the Commissioner did not contest the withholding of these amounts and only raises that they were not proven to be remitted, this Court finds that PAL sufficiently proved that it is entitled to its claim for refund. (*Philippine Airlines Inc. v. Commissioner of Internal Revenue, G.R. Nos. 206079-80/G.R. No. 206309, 17 January 2018*)

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