
2021 YEAR-END TAX UPDATES and REMEDIES

Friday, December 10, 2021 * 1:30pm - 4:45pm via ZOOM

Course Outline

The content of this webinar includes relevant BIR regulations, Court of Tax Appeals and Supreme Court rulings covering the year 2020 and up to November 2021. The topics are easily arranged based on the practical issues as it is encountered by the taxpayers. The outline will be updated as new regulations and rulings are released and made available to the public.

INCOME TAX

1. Implementing Rules allowing businesses which incurred net operating loss carry over (NOLCO) incurred for taxable years 2020 & 2021 to carry over the same as deduction from its gross income for the next five (5) consecutive taxable years immediately following the year of such loss. (Revenue Regulations No. 25-2020, September 30, 2020).
2. Whether or not taxpayer is liable for income tax on interest income (First Philippine Utilities Corporation vs. CIR, CTA Case No. 9431, September 29, 2020)
3. This regulation implements the new income tax rates on the regular income of corporations on certain passive incomes, including additional allowable deductions from gross income of persons engaged in the business or practice of profession pursuant to the CREATE Law (Revenue Regulations No. 5-2021, April 8, 2021)
4. This regulation cover the manner of submission of copies of BIR Forms Nos. 2307 and 2316 (Revenue Regulations No. 16-2021, August 3, 2021)
5. This regulation implements the TRAIN Law concerning registration forms requiring for filing with BIR for registration of employees (Revenue Regulations 1-2020, January 9, 2020)
6. This regulation amends certain rules on taxation of shares held as capital assets, (Revenue Regulations No. 20-2020, August 17, 2020)
7. This regulation allowed qualified businesses to carry over net operating loss carry over for the next five (5) consecutive years from the present next three (3) consecutive years (Revenue Regulations 25-2020, September 30, 2020)

VAT-EXEMPT & VATABLE TRANSACTIONS

1. This regulation implements the provisions on VAT and Percentage Tax under the CREATE Law concerning VAT-exempt transactions covering sales of real properties and sales of house and lots and other residential dwellings. (Revenue Regulations. 4-2021, April 8, 2021)
2. This regulation implementing the provisions on VAT and Percentage Tax under the CREATE Law concerning tax exemptions of cooperative and self-employed individuals and professionals (Revenue Regulations 4-2021, April 8, 2021)

3. This regulation amended certain provisions of Rev. Regs. 16-2005 implementing the impositions of the 12% VAT on certain specific transactions (Revenue Regulations 9-2021, June 11, 2021)
4. This regulation amended certain provisions of Rev. Regs. 16-2005 pertaining to zero rated sale of services (Revenue Regulations 9-2021, June 11, 2021)

WITHHOLDING TAX

1. Implementing Rules providing for the criteria for top withholding agents
2. Implementing Rules further amending the criteria for top withholding agents to conform with the Train Law (Revenue Regulations No. 31-2020, December 18, 2020)
3. Implementing Rules on withholding taxes due on income payments to individual and non-individual payees (Revenue Regulations No. 11-2018, July 26, 2019)
4. Liabilities of a withholding agent and whether or not it has legal personality to file on behalf of the taxpayer a claim for refund of taxes erroneously paid (Procter & Gamble Phil. vs. CIR, G.R. No. 66838, December 2, 1991)
5. Implementing rules clarifying the tax treatment of director's fees for income tax and business tax purposes (Revenue Memorandum Circular No. 34-2008, April 18, 2008)
6. Amending certain provisions of Revenue Regulations 2-98 to implement the amendments introduced by CREATE Law to the National Internal Revenue Code relative to the Final Tax on Certain Passive Income (Revenue Regulations 2-2021, April 8, 2021)

REAL PROPERTY TAX

1. Jurisprudence provides two ways to contest a real property tax assessment. The method would depend on that which is being contested by the taxpayer (Jetti Petroleum Inc. vs. Talento, (CTA EB No. 2093, July 14, 2020)
2. Whether or not taxpayer is correct seeking tax exemption from real property tax for failure to exhaust administrative remedies under the Real Property Tax Code (Metropolitan Waterworks Sewerage System vs. Central Board of Assessment Appeals, G.R. No.215955, January 13, 2021)

DOCUMENTARY STAMP TAX

1. Implementing Rules providing for exemption from documentary stamp tax on loans extended or credits restructured. (Revenue Regulations No. 24-2020, September 30, 2020)

RELATED PARTY TRANSACTIONS

1. This regulation prescribes the use of the new BIR Form No. 1709 (Information Return on Related Party Transactions [Domestic and/or Foreign]) to comply with the Philippine Accounting Standards.

FRANCHISE TAX

1. Whether or not the franchise rates should continue to apply to the taxpayer since it was not specifically amended by the Train Law (Games and Amusement Board and CIR vs. Klub Don Juan de Manila, G.R. No. 252189, February 18, 2021)

EXCISE TAXES

1. This regulation covers the outright exemption granted to exportation of sweetened beverages products from the payment of the sweetened beverage excise taxes (Revenue Regulations 10-2021, June 17, 2021)

GRANT OF INCENTIVES

1. This regulation is promulgated to implement Sec. 3 of the CREATE Law particularly on the submission by the Commissioner of Internal Revenue of the needed tax-related information to the Department of Finance as to grant of incentives to particular entity under Section 16 of the CREATE Law (Revenue Regulations 3-2021, April 8, 2021)

DONOR'S TAX

1. This regulation provides for exemption from donor's tax and deductibility from gross income for donations of personal computers, laptops, tablets or similar gadgets for teaching in public schools (Revenue Regulations 26-2020, October 6, 2020)

PENALTIES

1. This regulation implements the penalty provisions under the TRAIN Law for any attempt to evade or defeat payment of tax. (Revenue Regulations 13-2021, June 23, 2021)

TAX ASSESSMENTS

Whether or not Preliminary Collection Letter issued by the BIR is considered a final decision for deficiency assessment against a taxpayer - (Dennis M. Yap vs. CIR, CTA EB Case No. 2272, June 15, 2021)

1. Whether or not the taxpayer was denied due process of law on the ground of alleged issuance of the Final Letter of Demand by the BIR (CIR vs. Lanao del Norte Electric Cooperative, CTA EB Case No. 2236, June 9, 2021)
2. Whether or not there is a violation of the taxpayer's right to due process of law for the BIR serving the Final Letter of Demand for deficiency assessment before the Preliminary Assessment Notice was served (CIR vs. Kokoloko Network Corporation, (CTA EB Case No. 2197, June 3, 2021)

3. Whether or not the reckoning period for the determination of deadline for the filing of the Petition for Review with the Court of Tax Appeals is from the receipt of the BIR's denial letter. (Lepanto Consolidated Mining Co. vs. CIR, CTA EB Case No. 2184, May 24, 2021)
4. Whether or not the assessment is void for the failure of the BIR to prove service thereof to the taxpayer or its authorized representative, (CIR vs. Xylem Water Systems International Inc., (CTA EB Case No. 2120, March 12, 2021)
5. Whether or not the Court of Tax Appeals has the authority to grant an injunction to restrain the collection of the national internal revenue tax under the National Internal Revenue Code (CIR vs. Central Luzon Drug Corporation, CTA EB Case No. 2038, March 16, 2021)
6. Whether or not the right of the BIR to assess the deficiency tax has already prescribed and whether or not the BIR can still collect the alleged tax deficiencies (CIR vs. Bank of the Philippine Islands, G.R. No. 227049, September 16, 2020)
7. Whether or not the failure of the BIR to prove that the Final Assessment Notices were properly served is tantamount to denial of due process of law and will consequently nullify the assessment (CIR vs. T-Shuttle Services Inc., G.R. No. 240729, August 24, 2020)
8. Starting January 1, 2018, the Train Law prohibits the simultaneous imposition of both deficiency interest and delinquency interest for tax liabilities or deficiency taxes due. The same rule applies where full payment of the liability will only be accomplished after January 1, 2018 (CIR vs. Sabre Travel Network Inc., CTA EB No. 1932, September 3, 2020)
9. Whether or not the reply for the Pre-Assessment Notice (PAN) is part of due process giving chance to the taxpayer to explain or rebut the findings in the PAN (CIR vs. Max Sta. Mesa, (CTA EB No. 2063, November 18, 2020)
10. While taxes are the lifeblood of the nation, the Court cannot allow tax authorities indefinite periods to assess and/or collect alleged unpaid taxes (CIR vs. Bank of the Philippine Islands, G.R. No. 227049, September 16, 2020)
11. Implementing Rules amending pertinent rules on due process requirement on tax assessments (Revenue Regulations No. 22-2020, September 16, 2020)

CUSTOMS AND TARIFF CODE

1. Whether or not imported goods were validly seized and forfeited in favor of the government due to the failure of payment of customs duties (Republic of the Philippines vs. Amira C. Foods International DMCC (CTA EB Case No. 2210, June 3, 2021)

TAX REFUND

1. Whether or not the taxpayer filed its judicial claim for tax credit/ refund of input VAT with the Court of Tax Appeals for lack of jurisdiction (Thermaprime Drilling Corp. vs. CIR, CTA EB Case No. 2155, March 2, 2021)
2. Findings of independent CPA may be challenged by the parties and shall not be conclusive upon the Court since the latter is free to either completely adopt or disregard the findings of the CPA. Also in a tax refund, any doubt is always construed against the claimant and in favor of the BIR (Tullet Prebon Phil. Inc. vs. CIR, (CTA EB No. 1932, September 3, 2020)

3. Whether or not the CTA EB erred in affirming the ruling that taxpayer is entitled to have a tax refund representing its unutilized and excess input VAT attributable to zero rated sales (CIR vs. Philex Mining Corporation, G.R. No. 218057, January 18, 2021)
4. Implementing Rules on the cash conversion of unutilized tax credit certificate (Revenue Regulations No. 14-2020, May 28, 2020)
5. Whether or not the entire claim for refund should be granted based on the evidence presented (Philam Properties Corporation vs. CIR, CTA EB 1406, July 7, 2017)
6. In a claim for tax refund, who has the burden of proving actual remittance of taxes (Univation Motor Phil. Inc. vs. CIR, CTA EB No. 1789, July 5, 2019)
7. These regulations provide the guidelines for the cash conversion of unutilized tax credit certificates (Revenue Regulations No. 14-2020, May 28, 2020)

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