TMAP TAX UPDATE FOR MARCH 2016

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SUPREME COURT DECISION

Silicon Philippines, Inc. vs. Commissioner of Internal Revenue
G.R. No. 182737 dated March 2, 2016

Silicon Philippines, Inc. is a corporation engaged in the business of designing, developing, manufacturing and exporting integrated circuit components. It is a preferred pioneer enterprise registered with the Board of Investments. After paying VAT for the 2nd to 4th quarters of 2002, it sought to recover the VAT it paid on imported capital goods by filing an application for a tax credit/refund. Because of the Commissioner's inaction on the administrative claims for refund, Silicon filed three petitions for review with the CTA which the denied claims, both in Division and *En Banc*.

Ruling
The Supreme Court first determined the timeliness of the petition for review. After filing the administrative claim for refund, the taxpayer must file a judicial claim for refund, within 30 days from either (1) the receipt of the decision by the Commissioner, or (2) the lapse of the Commissioner's 120 days inaction, such 120 days being counted from the submission of the complete documents supporting the administrative claim.

In the instant case, Silicon Philippines filed the three petitions for review with the CTA around 261 to 502 days from the end of the 120-day period following the administrative claim. Thus, the petitions for review filed by Silicon Philippines were filed out of time and the CTA had no jurisdiction to act upon the said petitions. The decisions of the CTA Second Division and the CTA *En Banc* are void. Thus, the judicial claims for refund filed Silicon Philippines were dismissed.

CTA EN BANC DECISIONS

Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.
CTA EB Case No. 1266 dated February 17, 2016

Deutsche Knowledge is the Philippine branch of a multinational company and is licensed to do business as a regional operating headquarters to engage in the general administration and planning, among others. It filed a VAT Return where it claimed input VAT. It subsequently filed a written Application for Tax Credits/Refunds and upon the Commissioner's inaction, it filed a Petition for Review with the CTA.

The Third Division ordered the Commissioner to issue Tax Credit Certificates in favor of Deutsche Knowledge. The Commissioner then filed a Petition for Review appealing such decision.

The Commissioner argued that Deutsche Knowledge failed to (1) exhaust administrative remedies when it did not submit complete documents required under Revenue Memorandum Order (RMO) No. 53-98 and (2) prove that the recipient of such services is doing business outside of the Philippines.

On the other hand, Deutsche Knowledge offered several official receipts and proofs of inward remittances. It argued that the equipment it purchased had an estimated useful life of forty-eight (48) months instead of sixty (60) months as found by the Third Division.

Ruling

As to the Commissioner's first argument, the CTA cited *Commissioner of Internal Revenue vs. Team Sual Corporation*[1] and said that there is nothing in the law that requires submission of the complete documents for the grant of refund. The BIR can require the taxpayer to submit additional documents but the examiner cannot demand what type of supporting documents should be submitted. Otherwise, the taxpayer will be at the mercy of the examiner. In the instant case, the BIR never requested for submission of additional documents at the administrative level and it cannot be said that the BIR was deprived of the opportunity to study the instant case.

As to the Commissioner's second argument, the CTA ruled that Deutsche Knowledge submitted sufficient proof that the recipients are doing business outside the Philippines. Such proofs included the SEC Certifications of Non-Registration, Articles of Association, Authenticated Certificate of Registration; Company Profile Fact Sheet; Authenticated Certificate of Incorporation in Change of Names of Company; Authenticated Certificate of Good Standing; and Certificate of Incorporation.

On the argument of Deutsche Knowledge that the Third Division failed to consider two Official Receipts and proofs of inward remittances, the CTA said that the failure to indicate the amount of VAT on these receipts should not be a reason to disregard these receipts. According to the Court, there was no reason for Deutsche Knowledge to indicate any amount of VAT in such transaction because the same was zero-rated. However, these receipts were still not considered by the Court because Deutsche Knowledge failed to prove that the recipient of such services was a nonresident foreign corporation.

As to the allegation that the useful life should be forty-eight (48) months instead of sixty (60) months, the CTA considered the financial statements of Deutsche Knowledge containing an express statement that the Company Policy is to use a ten-year estimated useful life for its office equipment. According to the Court, since Company Policy stated that the estimated useful life of purchased office equipment is ten years, then the contention that the purchase of capital goods exceeding Php1 million be amortized only for 48 months is untenable.

On the argument that Deutsche Knowledge's input VAT for the 4th quarter of taxable year 2009 should not be applied against its output VAT for the same quarter since it has excess input VAT carried over from previous quarters, the CTA denied the argument. The Court said that only Monthly VAT Returns for October 2009 and November 2009 and Quarterly VAT Return for the fourth quarter of 2009 were submitted by the Deutsche Knowledge and that this is insufficient.

Commissioner of Internal Revenue vs. SVI Information Services Corporation
CTA EB Case No. 1149 dated March 3, 2016

SVI Information Services Corporation is a domestic corporation principally engaged in the business of providing information and related services in the areas of information technology, finance, economics, investments, and real estate. The Commissioner issued a Letter of Authority authorizing the examination of the books of accounts and other financial records of SVI for the taxable year 2007. Subsequently, SVI received a FAN and a Formal Letter of Demand. Thus, it filed a Petition for Review where the Second Division decided in favor of SVI on the ground, among others, of prescription.

The Commissioner then filed a Petition for Review seeking the reversal of the decision of the Second Division on the ground of lack of jurisdiction of the CTA to decide on the Payment Collection Letter. The Commissioner argued that what is involved is not a collection case but a dispute as to the validity of the

[1] G.R. No. 205055, July 18, 2014

Payment Collection Letter. According to the Commissioner, deciding on such issue is tantamount to suspending payment, levy, distraint, and/ or sale of any property.

Ruling
Citing *Commissioner of Internal Revenue vs. Hambrecht & Quist Philippines*,[2] the CTA ruled that its jurisdiction is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. The second part of the Section 7(a)(1) of Republic Act No. 1125 covers other cases that arise out of the National Internal Revenue Code. Thus, the Second Division had the jurisdiction issue the assailed decision.

The CTA also annulled the assessment made by the BIR for violation of SVI's right to due process. In this case, the Commissioner failed to prove the delivery and receipt of the PAN after SVI denied receiving the same. The fact that SVI received the FAN and the Formal Letter of Demand will not suffice to accord due process to SVI. Thus, the assessment made by the BIR was annulled.

Commisioner of Internal Revenue vs. Elric Auxiliary Services Corporation
CTA EB Case No. 1174 dated March 3, 2016

Elric Auxiliary Services Corporation is a domestic corporation engaged in the business of operating a gas station. The Commissioner sent a 48-hour notice to Elric informing the latter that they conducted a ten-day surveillance of its gas station in Digos City. As a result of the surveillance, Elric was found by the BIR to be liable for deficiency VAT. Elric then filed a Petition for Review with the CTA. The Second Division annulled the 48-hour notice of surveillance over the Elric's gas station and the 5-day VAT Compliance Notice.

The Commissioner then filed a Petition for Review assailing the Second Division's decision. The Commissioner argued that the CTA had no jurisdiction to review the administrative enforcement of the provisions of the NIRC, particularly Oplan Kandado.

Ruling
The CTA upheld its jurisdiction and ruled that such jurisdiction is not limited to decision rendered by the Commissioner but extends to other cases that arise out of the NIRC. The 48-hour notice of surveillance and the 5-day VAT Compliance Notice both fall within those other matters arising out of the NIRC. Thus, the CTA had jurisdiction to rule on the issue.

The CTA also affirmed the annulment of the notices for want of due process because the Commissioner did not explain how the surveillance was conducted and what methods were used to calculate the amount of sales indicated on the notices. According to the Court, without any explanation regarding the factual basis of the results of the surveillance, the taxpayer cannot be deemed to be sufficiently informed about the basis for the assessment of the VAT liability.

Commissioner of Internal Revenue vs. VMC Farmers Multi-purpose Coooperative
CTA EB Case No. 1253dated March 3, 2016

VMC Farmers is a multi-purpose agricultural cooperative. It sought the issuance of a Certificate Authorizing Release of Refined Sugars (CARRS) from the BIR but the Regional Director refused because VMC Famers failed to secure a new Certificate of Tax Exemption. Subsequently, VMC Farmers was able to secure a Certificate of Tax Exemption as a cooperative transacting with members only. Despite obtaining a new Certificate of Tax Exemption, the BIR refused to issue CARRS without the payment of

[2] G.R. No. 169225, November 17, 2010

advance VAT. Thus, VMC Farmers paid the advance VAT under protest and subsequently filed a claim for refund alleging its exemption under Section 109(L) of the National Internal Revenue Code. Due to the Commissioner's inaction, it filed a Petition for Review where the Second Division ruled in favor of VMC Farmers and ordered the Commissioner to refund the advance VAT.

The Commissioner then filed a Petition for Review assailing the VAT-exempt status of VMC Farmers.

Ruling
Citing Section 109(L) of the NIRC and Sections 6 and 7 of the Joint Rules and Regulations, the CTA classified cooperatives into two: (1) those duly registered cooperatives which transact business with members only; and (2) those duly registered cooperatives which transact business with both members and non-members.

In this case, the CTA said that since VMC Farmers belonged to the first category as shown by its Certificate of Tax Exemption, Article 60, not Article 61, of RA No. 9520 must apply. Thus, VMC Farmers shall not be subject to "taxes and fees imposed under internal revenue laws and other tax laws," including VAT. Moreover, VMC Farmers faithfully complied with the requirements for a VAT-exempt status, specifically, by presenting documents including: (1) Certificate of Registration with the CDA; (2) Certificate of Good Standing issued by the CDA; and (3) Certificate of Tax Exemption issued by the BIR. Since VMC Farmers is exempted from paying taxes, it may then apply for tax credit/ refund of the advance VAT it already paid.

The Commissioner also argued that the Certificate of Tax Exemption is not sufficient in itself to prove that VMC Farmers is indeed transacting only with its members. According to the Commissioner, VMC Farmers should have presented substantial proof that it actually and exclusively transacted with its members by providing its list of members, sales invoices and *quedans*. On the other hand, VMC Farmers argued that the case is not a refund of VAT on the sale of sugar but only for the issuance of an Authority Allowing Release of Refined Sugar. According to VMC Farmers, there is no need to submit additional evidence involving transactions that occurred before its application for the release of its sugar because it is merely applying for the release of its sugar and there was no sale involved.

According to the CTA, the three certificates presented by VMC Farmers, taken together, created a disputable presumption that it is deemed a tax-exempt cooperative. In this case, the Commissioner chose to waive her right to present evidence instead of offering documents to negate such presumption of tax exemption. Since VMC Farmers was tax exempt, the CTA granted the claim for refund.

Commissioner of Internal Revenue vs. Officemetro Philippines, Inc.
CTA EB Case No. 1213 dated March 7, 2016

The Commissioner issued a Letter of Authority authorizing the examination of Officemetro's books of accounts and other accounting records for taxable year 2005. As a result of the examination, the BIR issued a PAN and FAN assessing expanded withholding tax, deficiency income tax due to disallowed deductions and final withholding tax of VAT. Officemetro assailed the assessment through a Petition for Review in which the Third Division found that it was liable for all the assessments except for the expanded withholding tax for the condominium dues. This decision was assailed by both Officemetro and the Commissioner.

Ruling
As to the EWT on the condominium dues

The CTA ruled that the condominium dues paid by Officemetro are not subject to expanded withholding tax because at the time the subject assessments were issued, RMC 65-2012, subjecting such dues to EWT, was still inexistent. The subsequence issuance of the RMC shall not be given retroactive application if such will cause prejudice to taxpayers.

As to the deficiency income tax

The CTA ruled that the Contracts of Lease are not sufficient proof that the rental expenses claimed as deductions were actually paid. Thus, the claim for deductions on the account of rental expenses were properly disallowed.

As to the deficiency FWT on VAT

The CTA also found that Officemetro was liable for FWT of VAT on the services it rendered because the Officemetro, which is a non-resident foreign corporation, failed to prove that the services it rendered were performed outside the Philippines as the Intercompany Service Agreement did not state this fact.

CTA (IN DIVISION) DECISIONS

Philex Mining Corporation vs. Commissioner of Internal Revenue
CTA Case No. 8753 and 8762 dated February 17, 2016

Philex Mining Corporation is a domestic corporation engaged in the business of mining. During the 3rd and 4th quarters of 2011, it sold and actually shipped its mineral products to foreign buyers. It filed a VAT return indicating its total zero-rated sales and its claim for input VAT. It subsequently filed administrative claims for refund for the VAT paid for the two quarters. Because of the Commissioner's inaction on such claim, Philex Mining filed a Petition for Review for the refund of alleged unutilized input VAT paid by Philex on it purchases of goods and services attributable to its zero-rated sales for the 3rd and 4th quarters of 2011.

The sole issue in the case is whether Philex is entitled to the refund.

Ruling
According to the CTA, the following are the requirements to be entitled to a refund of unutilized input taxes:

1) There must be zero-rated or effectively zero-rated sales;
2) Input taxes were incurred or paid;
3) Such input taxes are attributable to zero-rated or effectively zero-rated sales;
4) The input taxes were not applied against any output VAT liability; and
5) The claim for refund was filed within the two-year prescriptive period.

As to the fifth requirement

The VAT refund or tax credit of creditable input tax due or paid must be filed within two (2) years from the close of the taxable quarter when the relevant sales were made. For the third and fourth quarters of 2011, the close of the taxable quarter is September 30 and December 31, respectively. Hence, Philex had until September 30, 2013 and December 31, 2013 to file administrative claims for refund. Philex did so on September 5, 2013.

Within thirty days following a 120-day inaction by the Commissioner, a judicial claim for refund must be filed. The 120-day period lapsed on January 3, 2014. Thus, Philex had until February 2, 2014 to file its judicial claim. Hence, the two Petitions for Review filed by Philex on January 6, 2014 and January 30, 2014 were timely filed.

As to the first and third requirements

To qualify as a zero-rated sale under Section 106(A)(2)(a)(1) of the NIRC of 1997, the following requisites must be complied with

1. that there was sale and actual shipment of goods from the Philippines to a foreign country;
2. that the sale was made by a VAT-registered person;
3. that it was paid in acceptable foreign currency or its equivalent in goods or services; and
4. that the payment was accounted for in accordance with the rules and regulations of the BSP.

In the instant case, Philex presented Export Declarations, Bills of Lading, Provisional Invoices and Final Invoices of the subject export sales to prove shipment of the copper concentrates to Japan and Korea. Philex was also a VAT-registered taxpayer with an approved Application for Zero Rate. It issues a VAT invoice which contained all the information required, such as the imprinted word "zero-rated." The sale was paid for in acceptable foreign currency as evidenced by the Consolidated Report prepared by an independent certified public accountant. To prove compliance with the BSP rules and regulations, Philex presented a Summary of Sales and Remittances, as well as the Certificates of Inward Remittances issued by local banks and the passbook pages indicating the amounts credited and dates of remittances. However, for some of the invoices issued by Philex on the fourth quarter of 2011, no inward remittance was submitted as evidence. Consequently, such invoices without a Certificate of Inward Remittance were disregarded in computing the valid zero-rated sales.

As to the second requirement

Philex submitted its Quarterly VAT Return and for the amounts without a Certificate of Inward Remittance, these were disallowed as input VAT. Some amounts without a proper VAT official receipt were also disallowed.

As to the fourth requirement

The CTA found that the input taxes paid by Philex for the second and third quarters were not utilized on the subsequent quarters. Hence, Philex was entitled to a refund for a portion of the amount it claimed that are properly substantiated by supporting documents.

Soumak Collections, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 8686 dated February 24, 2016

Soumak Collections is a domestic corporation which carries on the business of buying, selling, distributing and marketing several types of merchandise. The Commissioner issued a Letter of Authority authorizing the examination of Soumak's books of accounts and other accounting records. On the basis of such examination, the Commissioner issued a letter to Soumak stating that certain claimed input taxes were disallowed because the suppliers did not issue receipts. Subsequently, the Commissioner issued a PAN and a FAN for deficiency income tax and value-added tax, including surcharges and interest. Thus, Soumak filed a Petition for Review disputing the assessments made by the BIR.

Ruling

As to the deficiency income tax

The CTA sustained the disallowance of certain expenses because they are not substantiated by supporting documents. The CTA also upheld the Commissioner's disallowance of Soumak's claim of tax credit because Soumak failed to submit sufficient evidence to support such claim. The CTA noted that Soumak failed to submit the prior year's ITR and Certificates of Tax Withheld at Source.

As to the amount of excess tax credit that the Commissioner believed to have been carried over by Soumak to the succeeding years, the CTA said that the Commissioner failed to state her basis for believing that Soumak used the remaining tax credit it claimed in the succeeding years. Thus, it was improper for the Commissioner to make such assumption in the absence of any basis and to add back the excess tax credit to Soumak's income in the subsequent years.

As to the deficiency value-added tax

The CTA found that the portion of the input VAT which was unsubstantiated by VAT invoices should be disallowed. It also stated that the Commissioner improperly disallowed the claim for input VAT on the Soumak's payment of customs duties and import processing fees.

Unisys Philippines Limited vs. Commissioner of Internal Revenue
CTA Case No. 8634 dated March 7, 2016

Unisys Philippines is an American corporation engaged in information technology services and solutions, consulting and systems integration, and network services and security. Unisys filed its annual tax return which indicated a net loss. Thus, it paid the minimum corporate income tax. Subsequently, it filed an administrative claim for refund and upon the Commissioner's inaction, it filed a Petition for Review.

Ruling
According to the CTA, under Section 76 of the National Internal Revenue Code, a corporation entitled to a tax credit or refund of the excess income taxes paid in a given taxable year has two options: (1) to carry over the excess credit or (2) to apply for the issuance of a tax credit certificate or to claim a cash refund. In case the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period and no application for cash refund or issuance of tax credit certificate shall be allowed therefor. In exercising its option, the corporation must signify in its annual corporate adjustment return (by marking the option box provided in the BIR form) its intention, whether to carry over the excess credit or to claim a refund. The two options are alternative and not cumulative in nature. The choice of one precludes the other.

The CTA examined the tax return filed by Unisys and found that it opted for a refund of its CWTs by marking the box corresponding to the option "To be refunded". Nevertheless, although Unisys elected the option "To be refunded", it still carried over the excess tax credits. Thus, the CTA said that the option to refund was negated by the act of carrying over the entire excess tax credits to the succeeding taxable quarters. Having carried the excess tax credits, Unisys is bound by the "irrevocability rule" and it cannot seek a refund.

The CTA noted that Unisys presented its amended tax return to prove that the amounts were not carried over. According to the CTA, although it may be argued that the amendment superseded the previous return, Unisys cannot escape the legal consequences brought about by the carrying over of its claimed excess amount of withholding tax because tax exemptions are construed strictly against the taxpayer.

Oriental Assurance Corporation vs. Commissioner of Internal Revenue
CTA Case No. 8582 dated March 7, 2016

Oriental Assurance is a domestic corporation which received a Letter of Authority from the BIR stating that BIR examiners were authorized to examine the corporation's books of accounts and other accounting records. After receiving two requests for the submission of its records, Oriental Assurance availed of the benefits under the Tax Amnesty Program ("TAP"). However, it subsequently received a PAN and a formal letter of demand for deficiency income tax, VAT withholding and DST. Thus, Oriental Assurance filed a Petition for Review.

Oriental Assurance argued that in the CTA Case No. 7862 entitled *Oriental Assurance Corporation vs. Commissioner of Internal Revenue*, the Court has previously cancelled and set aside the assessment for deficiency DST in view of the full compliance with the TAP. The same ruling was reiterated by the Court of Tax Appeals *En Banc*[3] and by the Supreme Court.[4]

The Commissioner argued that several requests for presentation of records were sent to Oriental Assurance but to no avail, despite follow-ups and phone calls. It also stated that that the assessment underwent the necessary process and that the TAP does not cover withholding taxes and taxes passed on and already collected from customers for remittance to the BIR.

Ruling
The CTA found that Oriental Assurance validly availed of benefits under the TAP which covers all national internal revenue taxes for the taxable year 2005 and prior years that have remained unpaid as of December 31, 2005. However, the TAP shall not extend to withholding agents with respect to their withholding tax liabilities.

Citing *CS Garment, Inc. v. Commissioner of Internal Revenue*,[5] the CTA enumerated the suspensive conditions to avail of the tax amnesty, which is the submission of the following documents:

> 1. Notice of Availment of Tax Amnesty;
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> 2. SALN attached to the Tax Amnesty Return filed within six (6) months from effectivity of the IRR;
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> 3. For residents, Tax Amnesty Return (BIR Form No. 2116) filed with the Revenue District Officer ("RDO")/Large Taxpayer District Office of the BIR which has jurisdiction over the legal residence or principal place of business of the taxpayer, as the case may be, within six (6) months from effectivity of the IRR;
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> 4. Payment Form (BIR Form No. 0617); and
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> 5. Proof of payment of tax amnesty to the authorized agent bank or in the absence thereof, the Collection Agents or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business, payment shall be made within six (6) months from effectivity of the IRR.

The CTA examined the evidence and found that Oriental Assurance complied with these requirements. The Court then proceeded to examine whether the taxes assessed by the BIR are covered by the TAP.

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[3] *Commissioner of Internal Revenue vs. Oriental Assurance Corporation*, CTA EB No. 934, June 17, 2013
[4] *Commissioner of Internal Revenue vs. Oriental Assurance Corporation*, G.R. No. 209445
[5] G.R. No. 182399, March 12, 2014

Based on *Question 1 of Revenue Memorandum Circular* ("RMC") *No.* 69-2007, the CTA enumerated the following taxes included and excluded by the TAP:

Includes:	*Excludes:*
1. Income tax; 2. Estate tax, 3. Donor's tax; 4. Capital gains tax; 5. VAT; 6. Other percentage taxes; 7. Excise taxes; and 8. DST.	1. Withholding taxes; and 2. Taxes passed-on and already collected from the customers for remittance to the BIR.

Thus, as to the DST, the assessment is cancelled. As to the withholding tax on compensation ("WTC"), the CTA examined Sections 79 to 81 of the NIRC and concluded that oriental Assurance, as an employer is a withholding agent and that WTC falls under the definition of "withholding taxes," which is beyond the coverage of the TAP. As to the expanded withholding tax ("EWT"), the CTA found that it pertained to the purchase of goods and services whereby Oriental Assurance acted as withholding agent of the government in withholding the income tax from its payments to the seller of goods and/ or service provider. Being in the nature of a withholding tax, the assessment of EWT is also not covered by the TAP.

As to the VAT withholding, the CTA examined Section 144(C) of the NIRC as amended by RR No. 14-02 and ruled that with respect to the VAT withholding, Oriental Assurance acts as the private withholding agent of the non-resident entity and the government in ensuring that the VAT is rightfully deducted from the income of the non-resident and that the same is remitted to the Government. Therefore, VAT withholding is a withholding tax, which is not covered by the TAP.

The CTA then proceeded to determine the correct amounts for WTC, EWT and VAT withholding.

As to the WTC

The CTA found that Oriental Assurance did not withhold tax on the *de minimis* benefits it granted to its employees consisting of leaves, uniform allowance, Christmas bonus and 13th month pay. The Court ruled that Oriental Assurance failed to provide payroll lists or schedules detailing the names of its employees, as well as the amount and type of benefits received by each of its employees in order to ascertain that the same did not exceed the acceptable ceiling for *de minimis* benefits. Thus, the BIR's assessments were upheld.

As to the "other benefits" granted by Oriental Assurance to its employees, the amounts supported by schedules, official receipts, invoices and journal vouchers are considered *de minimis* and the assessments thereon were cancelled by the Court. The expenses for the financial assistance, medical expense, employees sportsfest and meal allowances were proved by Oriental Assurance to be non-taxable and the assessments thereon were also cancelled.

With reference to the contribution to the employee's SSS, these are non-taxable but as to the amount not supported by documents, the assessment for WTC remained.

As to the amount of EWT

Oriental Assurance did not refute the BIR's assessment of EWT on agency expenses; expenses on communication, light and water expenses; expenses on repair and maintenance, advertising expense, and insurance expenses. Thus, the assessments for 2% EWT would stand as to these items.

With respect to the representation expenses, some of the representation expenses actually pertained to payments of association/ monthly dues to recreational clubs and sponsorships exceeding Php10,000, which are subject to 2% EWT. For the booth rental and purchase of goods such as tikoy, the rates of EWT are 5% and 1%, respectively. As to the meals of insurance agents in different restaurants and related purchases from other than regular supplies that do not exceed Phpl0,000, the CTA ruled that they are not subject to EWT.

With respect to promotional and technical dues referring mainly to seminars (venue, food, seminar materials, *etc.)* conducted by Oriental Assurance and various seminars for employees, including foreign trips to Shanghai and other countries for top performing agents, where no regular supplier is involved, these are not subject to EWT. But as to amounts involving a regular supplier, EWT at the rate of 2% is due.

With respect to the transportation and travel expenses, these items claimed by Oriental Assurance referred to fuel and fares not covered by *RR No. 02-98.* As to the portion where no supporting invoices/receipts were presented to prove that the same were obtained from non-regular suppliers, EWT at the rate of 2% is due.

The insurance claims paid by Oriental Assurance directly to the insured were found by the CTA to be excluded from EWT. But as to amounts paid to repair shops, these are subject to 2% EWT. As to the printing and office supplies subjected by the BIR to 1% EWT, Oriental Assurance did not contest the same and the assessment thereon was upheld by the CTA.

With regard to the association and pool dues, the CTA sustained the assessment of EWT at the rate of 2% instead of 1% as imposed by the BIR. The EWT on donations made by Oriental Assurance were cancelled by the CTA. The CTA also ruled that the subscription expense is a purchase of goods subject to 1% EWT and that the notarial fees are subject to 2% EWT.

With reference to the "miscellaneous expenses", Oriental Assurance did not provide documents by which the Court can ascertain the veracity of the amounts indicated. Thus, the Bureau's imposition of 1% EWT thereon remains.

As to the "Increase in Deferred Acquisition Costs," Oriental Assurance failed to present documents that would show the actual nature of these costs. Thus, the CTA considered them as purchases of services subject to 2% EWT.

As to the VAT withholding

The assessment relates to reinsurance premiums paid to non-resident agents, the taxable year is 2005 during which, RR No. 4-07 was still inexistent. Following the applicable rule which is RR 14-02, services rendered to local insurance companies, with respect to reinsurance premiums payable to nonresident insurance or reinsurance companies are subject to 10% VAT. Since Oriental Assurance failed to present evidence that it actually paid the VAT on the said reinsurance premiums being assessed, the assessment was upheld.

As to the compromise penalty

The CTA clarified that compromise penalties are only amounts suggested in settlement of criminal liability, and may not be imposed or exacted on the taxpayer in the event that the taxpayer refuses to pay the same. Thus, the Court has no jurisdiction to compel a taxpayer to pay the compromise penalty because, by its very nature, it implies a mutual agreement between the parties. The imposition of the compromise penalty was therefore deleted by the CTA.

E.E. Black Ltd. – Philippine Branch vs. Commissioner of Internal Revenue
CTA Case No. 8719 dated March 8, 2016

E.E. Black is a Philippine branch of a foreign corporation duly licensed to do business a general contractor in the Philippines. The Commissioner issued a FAN assessing, among others, deficiency documentary stamp tax. After a reinvestigation where the Commissioner insisted on the DST, E.E. Black filed a Petition for Review with the CTA.

E.E. Black argued that it is not liable to pay DST because journal vouchers evidencing intercompany advances are not debt instruments within the meaning of the Section 179 of the NIRC imposing DST. It argued that these vouchers are internal accounting documents which are not issued by the debtor in favor of the creditor as a source or proof of the creditor's right to claim against the debtor. It also argued that the *Filinvest* case was anchored on Section 6 of Revenue Regulations No. 09-94 which is not found in Revenue Regulations No. 13-04.

The Commissioner, on the other hand, argued that the DST was assessed in accordance with the pronouncement of the Supreme Court in *Commissioner of Internal Revenue vs. Filinvest Development Corporation*.[6]

Ruling
The CTA ruled in favor of the Commissioner and found the *Filinvest* case applicable. In the said case, the Supreme Court categorically stated that instructional letters as well as journal and cash vouchers evidencing advances to affiliates qualified as loan agreements upon which DST may be imposed. Thus the cash disbursement vouchers and journal vouchers in this case constituted loan agreements subject to DST.

The CTA also rejected the argument that the absence of the counterpart of Section 6 of Revenue Regulations No. 09-94, which was the basis of the *Filinvest* case, in Revenue Regulations No. 13-04 indicates an implied repeal. The Court clarified that the enumeration of debt instruments in Revenue Regulations No. 13-04 is not exhaustive since it uses the phrase “including but not limited to.”

According to the CTA, the reliance of E.E. Black on the minute resolution issued by the Supreme Court in *Commissioner of Internal Revenue vs. APC Group, Inc.* was misplaced because such resolution is a mere minute resolution and not a decision that provides the facts and law on which it is based. The CTA also clarified that such resolution was issued by the Third Division of the Supreme Court as opposed to the *Filinvest* case which was decided by the Supreme Court *En Banc*.

As to E.E. Black’s argument that its Philippine branch cannot issue a debt instrument to its head office because they are one and the same legal entity, the CTA, citing *Marubeni Corporation vs. Commissioner of Internal Revenue*,[7] stated that the general rule that a foreign corporation is the same juridical entity as its branch office in the Philippines cannot apply in the instant case.

[6] G.R. Nos. 163653 and 167687, July 19, 2011
[7] G.R. No. 76573, September 14, 1989

Center for Training and Development, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 8742 dated March 8, 2016

Center for Training and Development is a domestic corporation engaged in providing, rendering, and conducting training, development and management education, corporate communication and research activities. The Commissioner issued a Tax Verification Notice authorizing its Revenue Officers to examine or audit the internal revenue taxes of Center for Training. The BIR then issued Assessment Notices for deficiency income tax for 2010 and value-added tax for four quarters beginning on the second quarter of 2006, which the Center protested. Upon receipt of the unfavorable Final Decision on Disputed Assessment, the Center filed a Petition for Review seeking to cancel the BIR's assessment on the ground, among others, of prescription.

Ruling
The CTA found that except for the income tax and the deficiency VAT for the first quarter of 2007, the BIR's right to assess the deficiency taxes were received by the taxpayer beyond three years from the last day prescribed by law for the filing of the tax return.

As to the income tax

The Court of appeals noted a discrepancy between the amount of deficiency claimed by BIR and the trade receivables stated in the Financial Statement of the Center. The Court found that the Commissioner committed an accounting slide arising from an erroneous positioning of a decimal point, thus arriving at the claimed deficiency that is ten times the actual deficiency.

The CTA also upheld the Commissioner's disallowance of several claimed deductions because the receipts and the contracts evidencing expenses were in the name of another person. As to the claimed consultancy, representation and entertainment expenses, the CTA ruled that the checks and the cash disbursement journals only establish the fact of payment and the fact that such payments were authorized. These documents, according to the CTA, do not prove the nature of the payments made by the Center and must therefore be disallowed. As to the professors' fees, some of these expenses were evidence only by Appointment Letters without any proof of payment. Thus, the portion not supported by checks was disallowed by the CTA.

The CTA, however, corrected the Commissioner when it added the excess disallowed NOLCO to the income of the taypayer in the succeeding years. According to the CTA, there is no basis for the Commissioner to assume that the Center deducted NOLCO from its gross income in the subsequent years. The CTA also found that the disallowance of the MCIT was improper because the benefit of excess tax credit carry-over will redound to the succeeding year and it was inappropriate to disallow the same as it is beyond the scope of the assessment for the year it was first claimed. As to the claimed creditable withholding taxes, only the portion substantiated by CWT Certificates were allowed as deductions.

As to the VAT

The CTA found that the Center miscalculated the VAT on its quarterly return in multiplying the tax base to 12%. Thus, deficiency VAT was found to be due.

Hoya Glass Disk Philippines, Inc. vs. Commissioner of Internal Revenue
CTA Case No. 8115 dated March 8, 2016

Hoya Glass Disk Philippines, Inc. ("Hoya Glass") is a domestic corporation engaged in the business of manufacturing, processing, wholesale selling and exporting of glass disk for hard disk drives and other

memory devices. It entered into a Know-How License Agreement with its parent corporation Nippon Sheet Glass Co., Ltd. (NSGC) where it would pay royalties. Subsequently, NSGC was acquired by Hoya Corporation, a Japanese corporation. Hoya Corporation restructured the operations of Hoya Glass in the Philippines resulting in the termination of the Know-How License Agreement which effectively ended the royalty payments made by Hoya Glass. They subsequently entered into another contract, called Technology Development Delegation Agreement ("TDDA"), whereby the parent corporation, Hoya Corporation, would perform research and technology development in exchange for delegation fees.

The Commissioner issued a Letter of Authority for the audit and investigation of all internal revenue taxes of Hoya Glass. In relation to the audit, Hoya Glass executed five Waivers of the Defense of Prescription. The Commissioner then issued a PAN and FAN for deficiency IT, VAT, and FWT. Hoya Glass then filed a Petition for Review assailing the assessments.

Ruling

As to the validity of the waiver

The CTA first outlined the requirements for a valid waiver:

1. It must be in the proper form prescribed by RMO 20-90;
2. It must be signed by the taxpayer himself or his duly authorized representative;
3. It must be notarized;
4. The CIR or the revenue official authorized by him must sign the waiver indicating that the BIR has accepted and agreed to the waiver;
5. Both the date of execution by the taxpayer and date of acceptance by the Bureau should be before the expiration of the period of prescription or before the lapse of the period agreed upon in case a subsequent agreement is executed; and
6. The waiver must be executed in three copies, with one copy for the taxpayer.

As to the argument of Hoya Glass that the corporation's signatory was not duly authorized, the CTA ruled that since it voluntarily executed and submitted the waivers, one after the other and never raised a single objection thereto, it should not be allowed to benefit from its own wrongdoing and should be deemed estopped from questioning the validity of the waivers. Thus, except as to the waivers executed beyond the prescriptive period to assess, the rest of the waivers are valid.

As to the deficiency income tax

The CTA upheld the Commissioner's disallowance of the claimed repair and maintenance expenses because Hoya Glass enjoyed the preferential tax rate of 5% on its gross income under Republic Act No. 7916 or the PEZA Law. Gross income, as defined in such law, refers to gross sales or gross revenues net of sales discounts, sales returns and allowances and minus costs of sales or direct costs but before any deduction is made for administrative expenses. The implementing rules and regulations provide for a non-exhaustive list of deductions that may be allowed. Under the rules, a deductible expense or cost must be attributable to the manufacture of the PEZA-registered products or goods. It is the burden of Hoya Glass to prove that the subject repairs and maintenance costs can be justifiably allocated as production overheads incurred in the manufacture of PEZA-registered goods. However, Hoya Glass failed to discharge such burden. In fact, the independent certified public accountant was denied access to the supporting documents such as check vouchers, supplier's invoices and official receipts. The said documents were also not presented to the Court and as such, the expenses must be disallowed.

Hoya Glass also claimed another deduction for expenses called “Others” incurred on the earlier part of the taxable year but which it failed to claim as deduction during the said period. The CTA ruled that Hoya Glass failed to prove that the said expenses called “Others” was not deducted during the said period.

As to deficiency VAT

The Commissioner argued that Hoya Glass undeclared sales pertaining to its sale of scrap materials. On the other hand, Hoya Glass argued that the sale of scrap materials including “rejects” and “seconds” that have undergone processing, shall be considered covered by the registered activity of the export enterprise and is therefore exempt from income tax.

The CTA, citing *Commissioner of Internal Revenue vs. Nidec Copal Philippines Corporation*,[8] ruled that such sales, even when incidental to the taxpayer's registered activities, is subject to regular income tax under the PEZA rules implementing RA No. 7916. However, upon the verification by the independent certified public accountant, the CTA found that scrap sales had already been subjected to output VAT.

As to the deficiency FWT

The interest expense was properly subjected to withholding except for a small portion thereof. As to the portion not subjected to withholding, the right to assess a part thereof had already prescribed. Thus, Hoya Glass is liable for deficiency FWT only as to the portion that was not subjected to withholding and which was assessed within the prescriptive period.

The Commissioner argued that the claimed research and development expenses under the TDDA were not for research and development. The amount was actually paid for a) glass substrate manufacturing; (b) development of customer technology contact to the related products being produced by Hoya Glass; and (c) the creation of Next Generation Products for GD 7S Material. According to the Commissioner, such payments for transfer of technical knowledge, skill, and expertise of Hoya Corporation to Hoya Glass are royalties subject to 25% FWT.

On the other hand, Hoya Glass argued that the payments for research and development expenses under the TDDA are in the nature of compensation that is exempt from withholding under the RP-Japan Tax treaty. Hoya Glass argued that under the TDDA, it shall own the proprietary rights over results of any technology development and this runs counter to the concept of royalty agreements. Such services were within the meaning of research and development as they involved the application of knowledge for the production of new or substantially improved manufacturing process and products.

However, the CTA noted that on the same day that Hoya Glass was restructured which resulted in the termination of the Know-How License Agreement, the parties entered into the TDDA where Hoya Corporation will receive delegation fees. The CTA applied the case of *Commissioner of Internal Revenue vs. Smart Communications, Inc.*[9] which cited *Philippine Refining Co., Inc. vs. Commissioner of Internal Revenue*.[10] According to the said cases, to distinguish between compensation for service and royalty payments, one must inquire on whether the payee has proprietary interest in the property giving rise to the income. If the payee has none, then the payment is a compensation for personal services, if the payee has proprietary interest then the payment is royalty.

[8] CTA EB Nos. 250 and 255 (CTA Case No. 6577), October 1, 2007.
[9] CTA EB Nos. 206 and 207 {CTA Case No. 6782), June 28, 2007.
[10] Case No. 2872, January 15, 1986.

Under Section 6.1 of the TDDA, "Any result of Technology Development shall belong to NSGP." This showed that the parent corporation, Hoya Corporation, can have no proprietary interest in the results of the Technology Development it undertook to furnish Hoya Glass. Hence, any payments made by Hoya Glass to its parent corporation Hoya Corporation are compensation for services rendered and not royalties. As such, to be relieved from paying FWT, it is incumbent upon Hoya Glass to prove that the source of Hoya Corporation's income was not derived in the Philippines. However, Hoya Glass failed to do so. While Hoya Glass submitted a list of Technical Report which summarizes the Research and Development activities performed by Hoya Corporation pursuant to the TDDA, this was excluded in evidence for failure to present the original. As to the Debit Notes issued by Hoya Corporation and presented to the Court, the CTA said that these documents merely proved the existence of service transactions rendered and the subsequent billing thereof. Nothing therein showed the place where the services were performed. Thus, Hoya Glass is liable for FWT.

Esper Vargas vs. Commissioner of Internal Revenue
CTA Case No. 8750 dated March 8, 2016

Esper Vargas is a Filipino citizen who received a Letter Notice from the BIR. The Letter Notice stated that based on the computerized matching conducted by the BIR from third party sources *vis-a-vis* VAT returns he filed, he under-declared his local purchases. The Commissioner attributed to Vargas the 2007 sales of Nestle and issued a PAN and a FAN. It assessed deficiency income tax and VAT and then subsequently issued a Warrant of Distraint and Levy and Warrants of Garnishment. Vargas then filed a Petition for Review with an application for Temporary Restraining Order ("TRO") and Writ of Preliminary Injunction.

Ruling
The CTA found that there was a violation of Vargas' right to due process inasmuch as he did not receive the FAN. He was able to secure a copy of such FAN only on the day he learned of the garnishment. Thus, Vargas cannot be required to protest the FAN because such protest would be futile as the assessment was already being collected by the Commissioner. Thus, there was no "disputed assessment" since Vargas was not given the opportunity to challenge the FAN. Despite the absence of a "disputed assessment," the case still falls within "other matters arising out of the NIRC" and is still within the jurisdiction of the CTA.

The CTA also annulled the assessments because it failed to comply with due process. It is elementary that a taxpayer must actually receive any assessment issued by respondent in order for the same to be valid. When Vargas denied the receipt of the FAN, the Commissioner had the duty to prove that Vargas received the FAN. It failed to do so. According to the CTA, since Vargas did not actually receive the assessment, the same cannot be considered final, executory, and demandable. Therefore, the Commissioner's right to collect thereon has no basis. Citing *CIR v. BASF Coating + Inks Phils., Inc.*,[11] the CTA ruled that a taxpayer cannot be deprived of his property if the basis for the collection is an invalid assessment or when the taxpayer's right to due process is violated.

As to the actual damages claimed by Vargas, in the form of filing fees and attorney's fees, the CTA laid down the general rule that attorney's fees and expenses of litigation cannot be recovered unless, among others, the claimant is compelled to litigate or incur expenses to protect his interest). However, it is the Commissioner's prime duty to perform tax assessment. Moreover, under the case of *Farolan vs. Court of tax Appeals,*[12] the Commissioner is immune from suit following the doctrine of sovereign immunity.

[11] G.R. No. 198677, November 26,2014
[12] G.R. No. 42204, January 21, 1993

BIR ISSUANCES

Revenue Memorandum Circular No. 14-2016
RMC 14-2016 prescribes the BIR priority list containing 26 projects to which all the offices of the Bureau must align their projects and activities. Included in the list are Oplan Kandado which imposes the closing of business establishments for noncompliance with VAT rules and regulations, Electronic Tax Information System, Exchange of Information with the governments of other countries, Electronic Certificate Authorizing Registration System and the Centralized Arrears and Forfeited Asset Management Project.

Revenue Memorandum Circular No. 15-2016
RMC 15-2016 notifies all revenue officers regarding the effectivity of the Philippines-Germany Tax Treaty beginning January 1, 2016. For this purpose, the concerned German resident income earner or his authorized representative should file a duly accomplished BIR Form No. 0901 (Application for Relief from Double taxation) together with the required documents at the back of the form. Such application should be filed with and addressed to the International Tax Affairs Division (ITAD) at Room No. 811, Bureau of Internal Revenue, National Office Building, Diliman, Quezon City, Philippines.

Revenue Memorandum Circular No. 16-2016
RMC 16-2016 informs all revenue officers regarding the loss of two used but unissued forms for Tax Verification Notice. Thus, the use of the said forms is invalid.

Revenue Memorandum Circular No. 17-2016
RMC 17-2016 circularizes the list of prices of sugar at millsite for the week ending January 24, 2016 for different places such as Batangas, Tarlac, Negros, Panay, Cotabato and Davao, as provided by the Licensing and Monitoring Division, Regulation Department, Sugar Regulatory Administration.

Revenue Memorandum Circular No. 18-2016
RMC 18-2016 circularizes the list of prices of sugar at millsite for the week ending January 31, 2016 for different places such as Batangas, Tarlac, Negros, Panay, Cotabato and Davao, as provided by the Licensing and Monitoring Division, Regulation Department, Sugar Regulatory Administration.

Revenue Memorandum Circular No. 19-2016
RMC 19-2016 clarifies Section 3 of Republic Act No. (RA) 9040 which exempts from income tax certain allowances received by AFP Personnel such as: longevity pay, cost of living allowance, hazardous allowance, combat pay, air mechanic's pay, sea duty pay, hazardous duty pay, parachutist's pay, hardship pay, cold winter's clothing allowance, initial enlistment and reenlistment allowance, among others. While Executive Order No. 201 series of 2016 grants Monthly Provisional Allowance and the Monthly Officer's Allowance, these allowances are not within the tax exemption granted by RA 9040 and are therefore subject to income tax.

Revenue Memorandum Circular No. 20-2016
RMC 20-2016 circularizes the list of prices of sugar at millsite for the week ending February 7, 2016 for different places such as Batangas, Tarlac, Negros, Panay, Cotabato and Davao, as provided by the Licensing and Monitoring Division, Regulation Department, Sugar Regulatory Administration.

Revenue Memorandum Circular No. 21-2016
RMC 21-2016 informs all revenue officers of the Accountancy Resolution No. 03, series of 2016, issued by the Professional Regulatory Board entitled "Requiring the Submission of Certificate by the

Responsible Certified Public Accountants on the Compilation Services for the Preparation of Financial Statements and Notes Thereto."

Revenue Memorandum Circular No. 24-2016
RMC 24-2016 reminds all revenue officers to enforce the mandatory submission by non-stock non-profit educational institutions of the following documents required under Department Order No. 149-95, issued by the Secretary of Finance:

> a) Certification from their depositary banks as to the amount of interest income earned from passive investments not subject to the 20% final withholding tax imposed by Section 24(e) of the Tax Code;
>
> b) Certification of actual utilization of the said income; and
>
> c) Board Resolution by the school administration on proposed projects (i.e., construction and/or improvement of school building and facilities, acquisition of equipment, books and the like) to be funded out of money deposited in banks or placed in money markets.

Under Section 4(3), Article VIX of the Constitution, revenues received by non-stock non-profit educational institutions actually, directly and exclusively used for educational purposes are exempt from income tax. To ensure that their interest income from bank deposits is actually, directly and exclusively used for educational purposes, the Secretary of Finance issued Department Order No. 149-95. Thus, depositary banks require the submission of a certificate of tax exemption to substantiate the non-imposition of the 20% and the 7 1/2 % final withholding taxes on interest income earned by non-stock non-profit educational institutions. However, there were observations that some educational institutions no longer comply with the said Department Order. Thus, RMC 24-2016 reminds revenue officers to require the submission of these documents and orders the Revenue District Office to conduct an audit of the annual information return filed by non-stock non-profit educational institutions.

Revenue Memorandum Circular No. 25-2016
RMC 25-2016 circularizes the processing fees to be charged by the BIR on applications for certification of tax payments. The processing fee is P100.00 for every twelve tax payments. Thus, for up to forty-nine to sixty tax payments, the amount is P500. These amounts shall be paid only to the Revenue Collection Officer authorized to use the Mobile Revenue Collection Officer System, through the Collection Officer Receipting Device. The said officer shall generate an Electronic Official Receipt and not an Electronic Revenue Official Receipt.

Revenue Memorandum Circular No. 27-2016
RMC 27-2016 circularizes the list of prices of sugar at millsite for the week ending February 14, 2016 for different places such as Batangas, Tarlac, Negros, Panay, Cotabato and Davao, as provided by the Licensing and Monitoring Division, Regulation Department, Sugar Regulatory Administration.

Revenue Memorandum Circular No. 28-2016
RMC 28-2016 circularizes the list of prices of sugar at millsite for the week ending February 21, 2016 for different places such as Batangas, Tarlac, Negros, Panay, Cotabato and Davao, as provided by the Licensing and Monitoring Division, Regulation Department, Sugar Regulatory Administration.

Revenue Memorandum Order No. 6-2016
RMO 6-2016 prescribes the BIR Strategic Plan for CY 2016-2020 consisting of the BIR Strategy Roadmap and the Strategic Objectives and Programs/Initiatives that the BIR shall undertake in order to

attain collection targets and sustain collection growth. All programs/initiatives to be undertaken by each office on an operational level must be aligned with the Strategic Plan.

Revenue Memorandum Order No. 7-2016
RMO 7-2016 prescribes the policies and procedures in the decentralization of processing and issuance of certifications on internal revenue tax payments to all concerned revenue offices. It summarizes the BIR office that is tasked with the receiving and processing of applications for the issuance of certifications on internal revenue tax payments. The concerned revenue office shall ensure that the confidentiality provisions are not violated.

In case of tax payments made through checks, further verification shall be made in the Integrated Tax System-Collection and Bank Reconciliation (ITS-CBR) and the Report of Returned/Dishonored Checks (BIR Form No. 12.58) to determine whether or not the check used as tax payment was subsequently dishonored. Where a tax payment could not be viewed in the ITS-CBR by the concerned processing revenue office, an immediate coordination shall be conducted with the concerned AAB, in case of un-uploaded tax payment, or with the Revenue Data Center (RDC). Thus, only tax payments posted in the ITS-CBR, if applicable, shall be the basis for the issuance of the certification applied for by the applicant.

The processing revenue office shall exercise utmost due care and diligence in the preparation and issuance of the certification. In case a certification has been issued containing inaccurate information without the conduct of the appropriate validation/verification and the same have been proven to be incorrect, the revenue official and personnel involved in the preparation and issuance of the defective certification shall be held administratively liable thereto.

The prescribed processing fee shall be paid only to the RCO authorized to use the Mobile Revenue Collection Officer System, thru the Collection Officer Receipting Device. The RCO shall generate an Electronic Official Receipt and not an Electronic Revenue Official Receipt as the processing fee is not considered a tax.

Revenue Memorandum Order No. 8-2016
RMO 8-2016 provides for the centralization in the National Office of the custody and safekeeping the original copies of documentary proofs of ownership by the government of absolutely forfeited properties acquired by the NIR through tax sales.

Revenue Memorandum Order No. 9-2016
RMO 9-2016 clarifies the duties and responsibilities of BIR officers and employees holding their position in the capacity of an officer-in-charge. Thus, a person holding an OlC-Regional Director position is equally authorized to and responsible as a regular Regional Director in issuing electronic Letters of Authority (eLA) and assessment/ demand notice, among others. Likewise, an OIC-Revenue District Officer is equally authorized and responsible for the issuance of an electronic Certificate Authorizing Registration (eCAR) as the regular RDO.

Revenue Regulations 2-2016
RR 2-2016 sets forth guidelines and procedures in securing and issuing an Authority to Release Imported Goods (ATRIGs) for imported automobiles already released from customs custody. An ATRIG is an authority issued by the Bureau of Internal Revenue (BIR), addressed to the Commissioner of Customs, allowing the release of imported goods from customs custody upon payment of applicable taxes, or proof of exemption from payment thereof, whichever is applicable. This authority is based on Section 131 of the NIRC requiring the payment of excise taxes before the release of articles from the customhouse.

In particular, for imported automobiles, Revenue Regulations No. 25-2003 dated September 16, 2003 mandates that all importations of automobiles whether for sale or otherwise, shall not be released without payment of ad valorem tax. If the ATRIG is not secured prior to the release of the vehicle from the customhouse, a presumption arises that the taxes due thereon where not paid or not paid properly. Thus, the excisable product, having been withdrawn from any such place or from customs custody or imported into the country without the payment or proper payment of the required taxes may be detained by any revenue officer in accordance with Section 172 of the NIRC, and if warranted, such article may be subsequently forfeited, pursuant to Section 268(C) of the NIRC.

The BIR has observed that a significant number of motor vehicles were released without the required ATRIG. However, for practical considerations and for lack of logistical provisions at the BIR, and in order to regularize their documents, imported automobiles that were released from customs custody may still be issued ATRIGs until March 31, 2016; Provided, that an application for ATRIG shall have been filed with the Excise LT Regulatory Division (ELTRD) and that the excise and value added taxes due thereon are paid within the same period. Consequently, all imported automobiles found to have been released from customs custody after March 31, 2016 without the required ATRIG shall be subject to seizure pursuant to Section 172, 263 and 268(C) of the NIRC, as amended.

Revenue Delegation Authority Order No. 1-2016

RDAO 1-2016 enumerates the signatories of the BIR, both in the regional and national level, in line with the implementation of the Government Accounting Manual (GAM) for National Government Agencies, pursuant to COA Circular No. 2015-007 dated October 22, 2015. These signatories refer to those persons authorized to sign:

1. List of Due and Demandable Accounts Payable – Advice to Debit Accounts (LDDAP-ADA);
2. Letter of Introduction (LOI) Direct Payment to the Account of the Creditor/Payee; and
3. Summary of LDDAP-ADAs Issued and Invalidated ADA Entries (SLIIAE)