

Supreme Court Decisions

Silicon Philippines, Inc. vs. Commissioner of Internal Revenue

G.R. No. 182737, 2 March 2016

The CTA has no jurisdiction to act upon, take cognizance of, and render judgment upon petitions for review filed out of time. For having rendered without jurisdiction, the decisions of both the CTA *in Division* and CTA *En Banc* are a total nullity that creates no rights and produces no effect. These invalid decisions are not decisions in contemplation of law that can serve as the subject of the Supreme Court's exercise of its power of review.

Court of Tax Appeals En Banc Decisions

Commissioner of Internal Revenue vs. ESS Manufacturing Company, Inc.

CTA Case Numbers EB 1169, EB 1175

30 March 2016

To apply the ten year period to assess on the ground of fraud, there must be proof. The law requires that fraud be established not just by preponderance of evidence but by clear and convincing evidence, for it is easy to allege but difficult to prove.

The CIR is not legally obliged to prove that her assessment is correct. The burden to prove that the assessment is incorrect lies on the taxpayer. The assessment must be upheld since the Court in *Division* was not convinced of the recommendations of the ICPA even if uncontroverted by the CIR. Factual findings of the trial court are entitled to respect and are not to be disturbed on appeal, unless some facts and circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case.

Commissioner of Internal Revenue vs. Nokia (Philippines), Inc.

CTA Case Numbers EB 1241,1243

30 March 2016

The determination of what relevant supporting documents should be submitted by the taxpayer to establish its entitlement to refund/TCC does not belong to the CIR. To rule otherwise will render the 120-day period for the CIR to decide on the claims for tax refund or credit indeterminate or indefinite. However, this does not preclude the CIR from requiring additional documents necessary to decide on the claim, or even denying the claim if the taxpayer fails to submit additional documents requested. Thereafter, whether these documents are actually complete as required by law is for the CIR and the courts to determine.

Tax refunds are in the nature of tax exemptions which result to loss of revenue for the government. Upon the person claiming an exemption from tax payments rests the burden of justifying the exemption by words to plain to be mistaken and to categorical to be misinterpreted, it is never presumed, nor be allowed solely on the ground of equity. These exemptions, therefore, must not rest on vague, uncertain or indefinite inference, but should be

granted only by a clear and unequivocal provision of law on the basis of language too plain to be mistaken.

Philippine Bank of Communications vs. Commissioner of Internal Revenue

CTA Case EB Number 1194, 1199

21 March 2016

Either BIR Form 2307 or BIR Form 1606 may be used to prove the fact of withholding. BIR Form No. 1606 contains the key information that could be gathered from BIR Form No. 2307. Moreover, BIR Form No. 1606 is a withholding tax remittance return required by law to be filed by the buyer in triplicate copies as a requirement for the transfer of title to the buyer. The form supports the certification (BIR Form No. 2307) attesting to the fact of withholding.

Commissioner of Internal Revenue vs. Bank of the Philippine Islands

CTA Case EB No. 1204

17 March 2016

The appellate jurisdiction of the Court of Tax Appeals is not limited only to decisions of the CIR involving disputed assessments or claims for refunds, but also those involving other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, which include the authority to determine the validity of a warrant of distraint and levy issued by the CIR, and whether the right to assess and the right to collect the subject taxes has prescribed.

The running of the the three-year period to assess is counted from the date of actual filing of the tax return or from the date prescribed by law for the filing thereof, thus, the court must clearly identify as to when the period to assess begins and ends for each of the type of tax assessed.

Commissioner of Internal Revenue vs. SVI Information Services

CTA Case EB No. 1149

3 March 2016

The determination of the validity of a Preliminary Collection Letter falls within the exclusive appellate jurisdiction of the CTA in Division under the term “other matters arising from the NIRC”.

The imperative receipt of the PAN has been ruled on and already settled by the Supreme Court. Actual receipt of the PAN must be proved – mere surmises and assumptions on the receipt of the PAN as the same was sent to the same address as the FAN and the FLD will not suffice. In the absence of proof of actual receipt of the PAN, the taxpayer was not accorded procedural due process in the issuance of the assessment.

Commissioner of Internal Revenue and Perfecto Aranas Regional Director of Revenue Region Number 19, Davao City vs. Elric Auxiliary Corporation/Sacred Heart Gas Station

CTA EB Case No. 1174

3 March 2016

It is within the jurisdiction of the Court of Tax Appeals to rule on the nullification of the 48 Hour Notice and Five-day Compliance Notice issued pursuant to the power of the CIR to suspend the business operations of a taxpayer clearly falls within the meaning of “other matters arising under the NIRC or other laws administered by the Bureau of Internal Revenue”.

The CIR may use the findings of the surveillance activities as basis for assessing the taxes. Indeed, it is accepted that even an assessment based on estimates is prima facie valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously. However, in this case, the CIR did not describe how the surveillance was conducted nor did she explain the methods used in arriving at their estimates, and whether the same gives rise to a reasonable estimate. Without such information, the sales amounts used by the CIR cannot be considered as prima facie as they appear to have been arrived at without any basis.

Commissioner of Internal Revenue vs. Officemetro Philippines Inc.

CTA EB Case No. 1210, 1213

7 March 2016

While it is true that the CIR has the power to issue rulings of first impression or to reverse, revoke modify any existing ruling of the Bureau, this should be read in conjunction with Section 246 of the NIRC where it is provided that any revocation, modification or reversal of any rules or regulations promulgated by the CIR shall not be given retroactive application if such will cause prejudice to taxpayers. This is consistent with the hornbook rule that BIR Rulings have no retroactive effect where a grossly unfair deal would result to the prejudice of the taxpayer.

National Transmission Corporation vs. Municipality of Labrador Pangasinan

CTA Case EB No. 1250

8 April 2016

Where an assessment has become final because the period to appeal with the court of competent jurisdiction has lapsed, the taxpayer cannot thereafter pay and ask for a refund and institute a suit for recovery. It is prohibited to reopen an assessment that has already become final, executory and collectible. The taxpayer is estopped from further questioning an assessment that has attained finality, otherwise government revenues suffer. What one cannot do directly, he cannot do indirectly.

Commissioner of Internal Revenue vs. VMC Farmers Multi-Purpose Cooperative

CTA Case EB No. 1253

3 March 2016

Under Section 109 of the Tax Code, in relation to Section 8 of the Joint Rules and Regulations Implementing Sections 60, 61 and 144 implementing R.A. 9520, there are two kinds of cooperatives classified according to the extent of their tax exemption: i) those duly registered cooperatives which transact business with members only; and ii) those duly registered cooperatives which transact business with both members and non-members. Petitioner herein

falls within the first category and therefore exempt from taxes, fees imposed under internal revenue laws and other tax laws, including the VAT.

THE COURT OF TAX APPEALS DECISIONS

**Asian Transmission Corporation vs. Commissioner of Internal Revenue,
16 March 2016
CTA Case Number 8366**

Where the Final Decision on Disputed Assessment signed by OIC-Head, Revenue Executive Assistant (Excise) Large Taxpayers Service, of the BIR, was elevated to the Commissioner of Internal Revenue, the Decision of the Commissioner of Internal Revenue is the one appealable to the Court of Tax Appeals, not the FDDA.

On the waivers executed, the general rule is that when a waiver does not comply with the requisites for its validity specified under RMO 20-90 and RDAO 01-05, it is invalid and ineffective to extend the prescriptive period to assess taxes. However, as a matter of exception and due to the peculiar circumstance that the parties are in *pari delicto*, the taxpayer cannot raise that the waivers are invalid. Also, the taxpayer is estopped from questioning the validity of the waiver since it is the same entity which caused the invalidity thereof.

With respect to withholding tax on compensation, unless specifically exempted, for compensation income to be subjected thereto, the said income must “come to the person” or must be realized or received by the same person, actually or constructively. In this connection, there is constructive receipt when the consideration for the articles sold, exchanged or leased, or the services rendered has already been placed under the control of the person who sold the goods or rendered the services without any restriction by the payor.

**GIC Private Limited (Formerly, Government of Singapore Investment Corporation Private Limited) vs. Commissioner of Internal Revenue,
CTA Case Number 8749
17 March 2016**

The Court can give due weight to documents executed in a foreign country only if there is an authentication issued by the Philippine Consular Office, its officer or deputy, proving its execution. In this case, petitioner was able to prove through a notarized and authenticated copy of the Certification issued by the Ministry of Finance of the Government of Singapore that it is a financial institution wholly owned and controlled by the Government of Singapore. Thus, it is exempt from the payment of income tax and final withholding tax on the interest income it derived from its investment in Philippine T-Bonds pursuant to Section 32 (B) (7) (a) of the NIRC of 1997.

Asian Navigation and Tracking Systems, Inc. vs. Commissioner of Internal Revenue,

CTA Case Number 7999

17 March 2016

Stipulation or agreement of facts entered into by the parties at the pre-trial constitute judicial admissions by them which do not require proof and cannot be contradicted unless previously shown to have been made through palpable mistake. Since it was jointly stipulated by the parties that the BIR sent the PAN and the FAN with the FLD to the wrong address, there was no valid service of said notices to the taxpayer. Consequently, the subject assessments are void.

Lufthansa German Airlines – Philippine Branch vs. Commissioner of Internal Revenue

CTA Case Number 8601

21 March 2016

Even if the taxpayer failed to file an application for tax treaty relief, it may still avail of the provisions of the applicable tax treaty as long as it has sufficiently proved its entitlement thereto.

Taganito Mining Corporation vs. Commissioner of Internal Revenue

CTA Case 8680

28 March 2016

The term “complete documents” in an application for refund pertain to those documents that are necessary to support the application for refund or tax credit, as determined by the taxpayer. The BIR examiner 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, who may require the production of documents that the taxpayer cannot submit. In addition, the BIR ought to know the tax records of all taxpayers.

It is well-settled that in claims for VAT refund, the non-submission of complete documents is not fatal to the taxpayer’s judicial claim. The Court is not barred from receiving, evaluating and appreciating evidence submitted before it. Once the claim for refund has been elevated to the Court, the admissibility, materiality, relevance, probative value and weight of the evidence presented therein become subject to the Rules of Court. The question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund lies within the sound discretion and judgment of the Court.

Bases Conversion and Development Authority vs. Commissioner of Internal Revenue

CTA Case Number 8757

15 March 2016

Under Republic Act Number 7227 otherwise known as the Bases Conversion and Development Act of 1992, the capital of the BCDA shall come from the sales proceeds and/or transfers of certain Metro Manila military camps, commonly known as Fort Bonifacio and Villamor (Nichols) Air Base. The law also provides that the proceeds from any sale shall not be

diminished and, therefore, exempt from all forms of taxes and fees, including withholding tax. To hold the BCDA liable for payment of tax would diminish the proceeds of the sale which shall be used for capitalization of the taxpayer as provided under R.A. No. 7227. This applies even to the sale of the allocated condominium units of the BCDA in the Serendra Project where it was clearly established that the proceeds thereof are for the capital funding of the BCDA.

A corporation entitled to a tax credit or refund of the excess estimated quarterly income taxes paid 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. If the option to carry over the excess credit is exercised, the same shall be irrevocable for that taxable period. In exercising its option, the taxpayer should signify its intention for refund by marking the option "To be Refunded" in its Annual Income Tax Return. Without this important detail, the Court cannot determine whether petitioner complied or violated the irrevocability rule under Section 76 of the NIRC of 1997, as amended. It bears stressing that the irrevocability rule prevents the taxpayer from claiming twice the erroneously or illegally collected CWT: (1) as automatic credit against taxes for the taxable quarters of the succeeding years for which no tax credit certificate has been issued and (2) as a tax credit either for which a tax credit certificate will be issued or which will be claimed for cash refund.

Acer Philippines, Inc. vs. Commissioner of Internal Revenue

CTA Case Number 8372

31 March 2016

The accrual of bonus in 2004 which was recognized as an expense in the taxpayer's books of accounts and AFS in 2004 but was claimed as deductible expense in its annual ITR for 2005 represents an overclaimed expense for taxable year 2005. The taxpayer adopted the accrual method of accounting where income was recognized in the period it was earned irrespective whether it was received or not. In the same manner, expenses were accounted for in the period they were incurred and not in the period they were paid. Thus, although paid only in 2005, the employees' bonus although paid in 2005 which accrued 2004 was a proper deduction for income tax purposes in the year 2004 and not in 2005. In any case, while it is a proper finding on the part of the BIR for deficiency income tax purposes, the deficiency VAT assessment arising from this particular finding must be cancelled since it does not represent sales of goods or services on the part of the taxpayer subject to VAT.

DOLE Philippines vs. Commissioner of Internal Revenue

CTA Case Number 8665

18 March 2016

In claiming tax refunds, it is axiomatic that the applicant must prove not only entitlement to the claim but also compliance with all the documentary and evidentiary requirements therefor.

Under Section 112(A) of the 1997 NIRC, a taxpayer engaged in zero-rated or effectively zero-rated sales is entitled to a refund or tax credit of unutilized input VAT attributable to such zero-rated or effectively zero-rated sales upon compliance with the following requisites:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes were attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. that the claim for refund was filed within the two-year

Further, the following conditions must also be complied with, to wit;

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

In addition to the abovementioned requirements, the VAT invoices and VAT official receipts must also comply with the invoicing requirements provided in *Section 113 of the 1997 NIRC*, in relation to *Sections 4.113-1(A)(l), B(l) and (B)(2)(c) of RR No. 16-05*, and that such invoices and receipts must have been duly registered with the BIR as prescribed under *Section 237* in relation to *Section 238* of the *1997NIRC*.

E.E. Black Ltd – Philippine Branch vs. Commissioner of Internal Revenue

CTA Case Number 8719

8 March 2016

Intercompany advances booked under due to/from accounts and evidenced by cash disbursement vouchers and journal vouchers constitute loan agreements subject to DST.

BIR ISSUANCES

REVENUE REGULATIONS

Revenue Regulations Number 2-2016

4 March 2016

Issuance of Authority to Release Imported Goods (ATRIG) for Imported Automobiles Already Released from Customs Custody

REVENUE REGULATIONS NO. 2-2016 issued on March 4, 2015 prescribes the guidelines and procedures in the issuance of Authority to Release Imported Goods (ATRIGs) for imported automobiles already released from customs custody.

Should an excisable item be released without the requisite ATRIG, a presumption arises that the taxes due thereon were 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, subsequently forfeited, pursuant to Section 268(C) of the NIRC. The person/s responsible for the same shall be held liable for unlawful possession or removal without payment of tax pursuant to Section 263 of the NIRC, as amended.

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, computed pursuant to the rates provided for in Section 4 of Revenue Regulations No. 25-03, based on the manufacturer's/importer's selling price as defined under Section 5 of the same issuance, at the time of importation, including 50% surcharge and 20% interest reckoned from the date of Final Import Entry and Internal Revenue Declaration. 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 Regulations Number 3-2016 23 March 2016

REVENUE REGULATIONS NO. 3-2016 issued on March 23, 2016 prescribes the policies and guidelines on the adoption of credit/debit/prepaid card payments as additional modes of payment of internal revenue taxes.

The payment of taxes using the said modes of payment shall be voluntary or optional on the part of the taxpayer. As such, the taxpayer shall bear the convenience fee and other fees being charged by banks and/or credit card companies for the use of said payment facility. Such fees, including the Merchant Discount Rate, shall, in no case, be deducted from any amount of tax due to the BIR.

In the payment of taxes thru credit/debit/prepaid card, the taxpayer has the option to choose from the available online payment facilities provided by the Electronic Payment Service Provider (EPSP) for the processing of its/his/her tax payments.

The authority to accept tax payments thru credit/debit/prepaid cards, and act as Acquirers shall be limited to Authorized Agent Banks (AABs) only. However, prior to the issuance of the BIR notification to the concerned AAB for the latter's authority to accept tax payments thru credit/debit/prepaid cards, the following conditions shall be satisfied:

- a. The Card Payment Information System of the AAB-Acquirer shall be tested and approved by the BIR;

- b. A Service Level Agreement (SLA) between the BIR and the AAB-Acquirer shall have been entered into; and
- c. The List of Card Issuers being enabled by the AAB-Acquirer shall be submitted to the BIR before the execution of the SLA. Any addition, deletion or amendment to the submitted list shall be reported in writing to the BIR within five (5) days after the change(/s) or amendment(/s) thereto has/have been introduced.

The BIR shall neither have any responsibility nor liability on any issues concerning the taxpayer-cardholder and the card issuer, including, but not limited to, “charge back”, erroneous posting or charging, non-payment of the taxpayer-cardholder to the issuer and other issues.

In case the taxpayer-cardholder made erroneous tax payment transactions through the prescribed payment mode, the same shall not give rise to any automatic “charge back” to the taxpayer-cardholder’s account. In meritorious cases, the taxpayer shall apply for refund/tax credit with the BIR in accordance with existing revenue issuances. Only the Philippine-issued credit/debit/prepaid cards under the name of the taxpayer-cardholder shall be used in payment of its/his/her tax liabilities.

The payment of taxes through credit/debit/prepaid card shall be deemed made on the date and time appearing in the system-generated payment confirmation receipt issued to the taxpayer-cardholder by the AAB-Acquirer, provided that payment is actually received by the BIR pursuant to these Regulations.

The taxpayer is not relieved of, and has a continuing liability for such taxes until the payment is actually received by the BIR. This continuing liability of the taxpayer is in addition to any liability of the AAB-Acquirer pursuant to the SLA entered into by the BIR and the AAB Acquirer.

In the initial implementation of the said prescribed mode of tax payment, the taxpayer shall electronically file the corresponding tax returns. Thereafter, and once the existing BIR systems have been enhanced, the filing of the corresponding tax returns by the taxpayer, through other channels or facilities shall be adopted.

The identity, security, authority, capability of the taxpayer-cardholder transacting with the BIR using its/his/her credit/debit/prepaid card in tax payments and transmission of data shall be secured through encryption and use of relevant industry-standard technologies.

Revenue Memorandum Orders

Revenue Memorandum Order Number 8-2016 3 March 2016

Amends the provisions of Revenue Memorandum Order (RMO) No. 83-2010 by centralizing at the National Office the custody and safekeeping of all original documentary proofs of ownership

by the government on absolutely forfeited assets that were acquired by the different offices of the BIR thru “tax sale”.

The Chief, Property Division (PD) in the National Office of BIR shall be the exclusive custodian of all original copies of documentary proofs of ownership on absolutely forfeited assets, both real and personal properties, including intangible assets that are specified in Section II.2 of this Order.

REVENUE MEMORANDUM CIRCULARS

Revenue Memorandum Circular No. 30-2016

14 March 2016

Reminds candidates of the May 9, 2016 National and Local Elections of their tax obligations.

All candidates, political parties, including party list groups are required to register with the BIR, issue Official Receipt (Ors) and withhold taxes pursuant to Revenue Regulations No. 8-2009, as amended by RR No. 10-2009. The registration of political parties or party list groups shall be made with the Revenue District Office having jurisdiction over their Head Office or principal office.

It shall be the duty of every individual candidate upon the filing of the certificate of candidacy, whether for local or national position, to register, or to update their registration with the BIR for those who have previously registered as Withholding Agents pursuant to RR No. 8-2009. The registration shall be made with the RDO having jurisdiction over the political subdivision where the candidate is seeking election, and, if this is not applicable, registration shall be made at the RDO having jurisdiction over their principal residence or registered address, as the case may be.

The registration of individuals in their capacity as candidates shall automatically end after thirty days from the date of the election. However, the registration of political parties, including party list groups, shall subsist.

All candidates and political parties, including party list groups are also required to keep adequate books and other accounting records such as Cash Receipts Journal, Cash Disbursements Book or their equivalent.

Every candidate, treasurer of a political party, including party list groups, and every person acting under authority of such candidate or treasurer shall register with the RDO concerned their Ors (at least in duplicate) to be issued for every contribution received, whether in cash or in kind. The original OR shall be issued to the contributor/donor while the duplicate shall be retained by the candidate or political party/list. Contributions in kind shall be valued at their cash equivalent or fair market value.

All RDOs are authorized to issue their registered individual candidates BIR printed non-Value-Added-Tax (VAT) Ors, without requiring Authority to Print. These non-VAT Ors shall be

accounted for by submitting data on the number of receipts used and surrendering the unused ones to the RDO within ten (10) days after the election.

All candidates and political parties, including party list groups, shall be responsible for the preservation of the records of contributions and expenditures, together with all pertinent documents, for at least five (5) years after the holding of the election to which they pertain and for their production for inspection as authorized by the Commissioner of Internal Revenue.

In terms of tax treatment of campaign contributions, RR No. 7-2011 provides that campaign contributions must have been utilized to cover a candidate's expenditures for his/her electoral campaign for it to be considered as exempt from Income Tax.

Unutilized/excess campaign funds, that is, campaign contributions net of the candidate's campaign expenditures, shall be considered as subject to Income Tax, and as such, must be included in the candidate's taxable income as stated in his/her Income Tax return filed for the subject taxable year.

Any candidate (winning or losing) who fails to file with the Commission on Elections (COMELEC) the appropriate Statement of Expenditures required under the Omnibus Election Code shall be automatically precluded from claiming such expenditures as deductions from his/her campaign contributions. As such, the entire amount of such campaign contributions shall be considered as directly subject to Income Tax.

The Circular likewise emphasized that only those donations/contributions that have been utilized/spent during the campaign period, as set by the COMELEC, are exempt from Donor's Tax. Perforce, donations utilized before or after the campaign period are subject to Donor's Tax and not deductible as political contribution on the part of the donor. Donations made by corporations in violation of Section 36 (9) of the Corporation Code are likewise subject to Donor's Tax and not deductible as political contribution on the part of donor/corporation.

Thus individual candidates, political parties and party-list groups who receive taxable contributions/donations shall file the proper Income Tax Return as follows:

- a. In the case of a candidate registered as a self-employed individual, such unutilized/excess/unreported funds coming from contributions/donations shall be declared for the quarter ending June 30, 2016 and filed not later than August 15, 2016 using BIR Form 1701Q. It should be noted that no further deduction, either itemized or optional, should be made against this taxable income;
- b. In the case of a candidate who is purely a compensation income earner within the year 2016, such taxable income shall be declared in BIR Form No. 1700 for taxable year 2016 not later than April 15, 2017;
- c. In the case of a candidate who is neither a self-employed individual nor a compensation income earner as of May 9, 2016, he/she shall declare said taxable income by filing a

short period return, for the period from January 1, 2016 to May 9, 2016, using BIR Form No 1700 not later than August 15, 2016; and

- d. In the case of political parties or party-list groups, the above taxable income shall be reported in the manner by which domestic corporations are required to file returns and pay taxes. Accordingly, the above taxable income shall be declared for the second quarter ending June 30, 2016 not later than August 29, 2016 using BIR Form 1702Q.

The above returns shall be filed and the Income Tax shall be paid in any of the Authorized Agent Banks (AABs) or through the Revenue Collection Officer/s, in places where there are no AABs, within the jurisdiction of the RDO where the candidate, political party or party list group is registered.

In terms of the tax treatment of campaign expenditures, Section 2.57.2 (X) of RR No. 2-98, as amended by RR Nos. 08-09 and 10-09 provides that income payments made by political parties and candidates of local and national elections for their purchases of goods and services as campaign expenditures, and income payments made by individuals or juridical persons for their purchases of goods and services intended to be given as campaign contribution to political parties and candidates, shall be subject to a Creditable Withholding Tax of five percent (5%) . the CWT shall apply to payments for goods and services regardless of the source of funds, that is, whether the source is through donations or from personal funds of the payor, or otherwise. The 5% CWT shall likewise apply to payments for various media services, printing jobs, talent/entertainment fees, lease of real and personal property, pre-election surveys, consultancy fees and fees for other similar services.

The 5% CWT shall be remitted to the BIR not later than the 10th day of the month following the month of payment/disbursement by filing the Monthly Remittance Return of Creditable Income Taxes Withheld (BIR Form No. 1601 E) in triplicate copies through the AABs under the jurisdiction of the RDO/Large Taxpayers District Office (LTDO) where the candidate, political party, and contributor is registered. In places where there is no AAB, the return shall be filed directly with the Revenue Collection Officer or the duly authorized Municipal/City Treasurer of the RDO.

The payors/withholding agents who are engaged in trade or business or in the practice of their profession are required to attach to BIR Form 1601-E the Monthly Alphabetical List of Payees (MAP) prescribed under RR no. 2-2006. Conversely, payors/withholding agents who are not engaged in trade or business or in the practice of their profession are not required to attach the MAP.

Candidates, political parties and contributors who are covered by the Electronic Filing and Payment System shall follow the rules prescribed for them, including the deadline for electronically filing the applicable withholding tax returns and paying the taxes due thereon via eFPS in accordance with RR No. 26-2002.

The payors/withholding agents are also required to file with the BIR office where it is registered, on or before March 1, 2017, an Annual Information Return of Creditable Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604E) as well as

the Statement of Contributions and Expenditures duly stamped “Received” by the COMELEC. For payors who are not engaged in business or practice of profession and have been designated as withholding agents for a limited time only during the election period, the due date to file the said documents is on or before the 30th day after the day of the elections.

Expenses that were not subjected to the 5% CWT, as herein required, are not considered utilized campaign funds, and the candidates, political parties/party-list groups are precluded from claiming such expenditures as deductions from his/her/its campaign contributions. As such, the full amount corresponding to said expense shall be reported as unutilized campaign funds subject to Income Tax.

Revenue Memorandum Circular No. 31-2016

15 March 2016

Announces the entry into force of the Agreement between the Republic of the Philippines and the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income on January 11, 2016.

Revenue Memorandum Circular No. 32-2016

17 March 2016

Announces the entry into force of the Protocol Amending the Convention between the Republic of the Philippines and the Government of New Zealand for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on income has entered into force on October 2, 2008. The provisions of the Protocol shall have effect in respect of taxes covered by the said Protocol, including taxes withheld at source, for any taxable period beginning on or after the first day of January 2009.

Revenue Memorandum Circular No. 35-2016

21 March 2016

Announces the availability of eBIRForms Package Version 6.0 which can be downloaded from any of the following sites:

1. www.knowyourtaxes.ph;
2. www.dof.gov.ph;
3. Dropbox using this link: <http://goo.gl/UCr8XS>;
4. Direct link: http://ftp.pregi.net/bir/ebirforms_package_v6.0.zip

Electronic Filing and Payment System (eFPS) taxpayers filing annual Income Tax Returns (i.e., 1700, 1701, 1702-RT, 1702-EX and 1702-MX) and Excise Tax Returns (i.e., 2200-A and 2200-T) shall prepare the tax returns using the offline package and submit to eFPS by clicking the SUBMIT/FINAL COPY button. eFPS taxpayers filing other returns (i.e., 1601-C, 1601-E, 2550M, 2550Q, 2551M, etc.) shall use the online eFPS. Thereafter, payment shall be made online thru the eFPS facility by clicking to proceed to payment button.

Non-eFPS taxpayers using eBIR Forms shall print the tax return and pay the tax due through Authorized Agent Banks, Revenue Collection Officers or GCash.

The accompanying schedules and manual attachments (i.e., Financial Statements, Statement of Management Responsibility, scanned BIR Forms Nos. 2307/2316 in DVD-R with sworn declaration per Revenue Regulations No. 2-2015, etc.), shall be manually filed within fifteen (15) days after the electronic filing of the return to the concerned Large Taxpayer Officer/Revenue District Office where they are registered. Together with the said schedules and attachments, taxpayers shall also submit the duly signed perprinted efiled return and printed system-generated confirmation receipt. The Summary Alphabetical List of Withholding Tax Shall be emailed to esubmission@bir.gov.ph.

Penalties provided in RR No. 5-2015 shall be imposed on taxpayers who fail to file and/or pay taxes using the mandated/prescribed mode/venue under existing revenue issuances.

Revenue Memorandum Circular No. 36-2016

21 March 2016

Clarifies the effectivity of the submission of certificate by the responsible Certified Public Accountants on the compilation services for the preparation of financial statements and notes thereto.

The implementation of the said requirement is still not applicable for the Income Tax Return filing period covering calendar year 2015, which is due on or before April 15, 2016; and will become effective only for the financial statements to be submitted for fiscal year ending June 30, 2016 and subsequent periods.

Revenue Memorandum Circular Number 41-2016

1 April 2016

Further amends BIR Forms No. 1700, 1701 and 1702, previously amended under Revenue Memorandum Circular No. 4-2011. The amendment consists mainly in making the disclosure of Supplemental Information under BIR Form Nos 1700 and 1701 optional on the part of the taxpayer for income tax filing covering and starting with calendar year 2015, for filing on or before April 15, 2016.

Individual income tax filers using forms No. 1700 and 1701 are however advised that for income tax filing covering and starting with calendar year 2016, the disclosures required under the Supplemental Information portion of the said forms will be mandatory. Thus, the taxpayers are advised to demand from their payors, and properly document their BIR Form 2307 and other pieces of evidence for final taxes withheld. However, said taxpayers, specially those engaged in business, should properly receipt and book all their income, whether they are subject to final withholding tax or whether the income tax is exempt.

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