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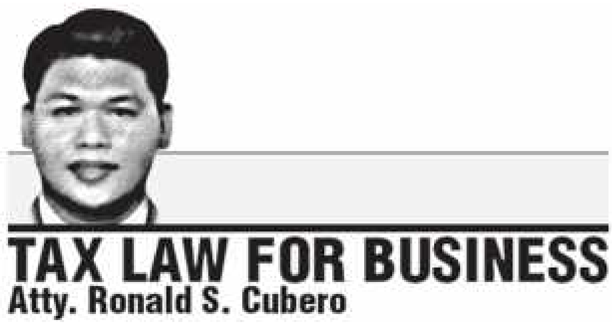

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Election spending and taxes

Campaign contributions and expenditures are the common cash inflows and outflows during election period. In order to regulate the same, the Omnibus Election Code, the Fair Election Act of 2001, and the Synchronized National and Local Elections Act of 1991 set the limit as to how much a candidate can spend, as well as the types of lawful expenditures that a candidate can spend on. All these expenditures and contributions must be summarized in the statement of contributions and expenditures to be filed with the Commission on Elections (Comelec) after the conduct of elections. Attached to the statements are the receipts and invoices issued relative to election campaign.

Relating the above requirements to taxes, the Bureau of Internal Revenue (BIR) released a circular (RMC 30-2016) on March 14, which clarifies the tax obligations of the candidates and other participants in the May 9, 2016, national and local elections. The essential information in the circular falls into two broad categories: BIR registration, and tax treatment of campaign contributions and expenditures.

As for the BIR registration, it requires all candidates and political parties, including the party-list groups, to register with the BIR, issue official receipts and withhold taxes.

The registration of the candidate shall be made with the RDO having jurisdiction over the political subdivision where the candidate is seeking election or over their principal residence or registered address as the case may be. For political parties or party-list groups, registration shall be made with the RDO having jurisdiction over their head office or principal office. Included in the registrations are the books of accounts and the non-value-added tax official receipts.

As for the tax treatment of campaign contributions and expenditures, the circular stressed that, by their nature, campaign contributions were given not for personal enrichment of the concerned candidates but for the purpose of utilizing such contributions for campaign. Thus, these are exempt from income tax. However, the circular provides three exemptions whereby these contributions become taxable:

(1) In the event that these contributions were not utilized for electoral campaigns, these unutilized or excess funds shall be considered as subject to income-tax and therefore must be included in the candidate’s taxable income as stated in his/her income tax return (ITR) to be filed at the end of the year;

(2) In the event that any candidate fails to file with the Comelec the appropriate statement of expenditures, the entire amount of such campaign contributions shall be directly subject to income tax; and

(3) In the event that these contributions were spent before and after the campaign period as set by the Comelec, the said contribution shall be subject to donor’s tax.

In the case of campaign expenditures, the circular clarified that there shall be 5-percent creditable withholding tax (CWT) for every payment made by political parties and candidates for their purchase of goods and services as campaign expenditures. The 5-percent CWT shall be remitted to the BIR not later than the 10th day following the month of the payment. What happens then if the candidates or political groups failed to withhold the same? The circular stressed that the full amount corresponding to said expense shall be reported as unutilized campaign funds subject to income tax.

In summary, with the above Comelec and BIR rules and regulations, election spending is seen to influence the positive tax-collection outturns to the government and empower the participatory process in shaping good governance due to simpler tax and election compliance.

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The author is a junior associate of Du-Baladad and Associates Law Offices (BDB Law), a member- firm of World Tax Services (WTS).

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