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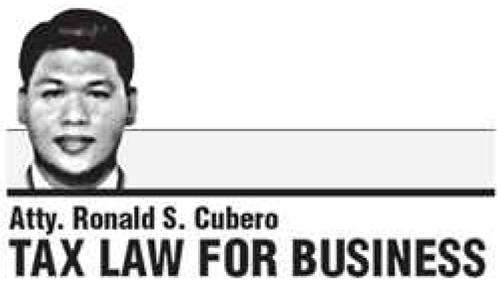

BDB Law's "Tax Law for Business" *appears in the opinion section of* ***Business Mirror*** *every Thursday.*

'Proper remedies for local tax'

AS we start the year 2017, renewal of business permits and payment of taxes are compulsory activities for any business organization. One of the major taxes is the local business tax imposed by the local government unit where one is doing business.

In the event that a taxpayer disagrees with the tax computation made by the local treasurer, taxpayer usually contests the same. This is done by filing a protest letter and elevating the case to the trial court if protest is denied by the treasurer, pursuant to Section 195 of the Local Government Code (Protest of assessment).

Section 195 provides, in gist, that a taxpayer may file a written protest with the local treasurer within 60 days from the receipt of the notice of assessment issued against it. From the date of filing, the local treasurer has another 60-day period to resolve the said written protest. In case the local treasurer does not find merit on the written protest filed by the taxpayer, the taxpayer has a period of 30 days from the receipt of such denial to file an appeal with the court.

Section 195, however, is different from the so-called paid under protest as the latter concept pertains to assessment of real-property tax, a remedy under Section 252 of the Code. But what if a taxpayer pays the local business tax under protest and subsequently files a claim for refund? Will section 195 of the Code still apply?

In a recent decision of the Court of Tax Appeals (AC 122), it had the occasion to clarify the remedies provided under section 195 vis-á-vis section 196 of the Code (Claim for refund of tax).

Here, the taxpayer was required to pay a local business tax during the year. The taxpayer, however, discovered an error and contested the statement of account (SOA). According to the taxpayer, there are two business taxes imposed in the said SOA. The taxpayer argued that it is invalid. If at all, the correct taxes should only be at a lesser amount.

Consequently, the taxpayer protested the same and filed a protest letter with the city treasurer. The latter denied the protest letter and the taxpayer was constrained to pay the amount stated in the SOA. However, it filed a written claim for refund and elevated the case to the Court via Section 196 instead of the usual Section 195, after the city treasurer had not responded to its written claim for refund. On the part of the city treasurer, it contented that the taxpayer should have appealed the denial of its protest via Section 195 of the Code.

In setting aside the contention of the city treasurer, the tax court explained that the case is not in the nature of protest on the assessment falling under Section 195 of the Code. The latter provision pertains to protests on the assessment issued by the local treasurer against a taxpayer found not to have paid its correct taxes. Here, the taxpayer paid the amount stated in the SOA. As taxpayer’s recourse, it filed a claim for refund. As such, according to the tax court, the case involves a claim of refund under Section 196 of the Code.

As a final note, with the tax court's pronouncement, it is vital and important for every business organization to be aware of the proper remedies in pursuing their rights. Incorrect procedure may result in the unnecessary denial of one's rights.

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