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RMC and the other addressee: The taxpayer

REVENUE memorandum circulars, or RMCs, serve important functions in the orderly administration of the Tax Code. One of which is clarifying certain issues when it comes to ambiguities arising from interpreting the Tax Code, especially in relation to other laws that affect it.

Another is it provides guidelines on implementation of the Tax Code to government personnel, for the efficient administration of the tax laws. However, ambiguity arises as to the nature of the RMC, as it is, technically, an internal memorandum addressed to the Bureau of Internal Revenue (BIR) staff, but has implications for taxpayers, as well. An example of this is RMC 31-2013, the subject of controversy in CTA Case 9081, decided on June 8. The said RMC, among others, provided guidelines as to collection of income tax from salaries of local Asian Development Bank employees. Although addressed to the BIR personnel, the issuance definitely affects the taxpayer.

The Court of Tax Appeals, in the said case, resolved the conflict by treating the RMC similar to actual legislation. The Court applied the principle of nonretroactivity on the said issuance. This means that its effects may not prejudice the taxpayer prior to its issuance. Such a treatment shows that RMCs, despite being addressed to BIR personnel internally, establish rules that are mandatory for taxpayers, as well. As such, it cannot be isolated as an issuance meant to affect the BIR solely. This viewpoint is further expounded in the dissenting opinion of the Honorable Senior Associate Justice Juanito Castañeda, where he elaborated that RMCs are of the nature of interpretative rules that clarify the application of the law. Thus, the issuance is actually an instruction as to how the law should be enforced.

It should come as no surprise, therefore, that when dealing with the BIR, the more conservative approach will always be to follow guidelines stated in RMCs. Despite its function as an internal issuance for the guidance of BIR personnel, it is actually the bureau's determination as to how the law should be implemented.

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