

SUMMARY OF SIGNIFICANT SC DECISIONS (February and March 2011)

1. Withdrawal of an appeal renders the assailed decision final and executory.

Taxpayer, a corporation engaged in the retail of medicines and other pharmaceutical drugs, filed a claim for tax credit certificate pertaining to the 20% sales discounts granted to senior citizens for the year 2002. The CTA denied the claim for insufficiency of evidence. Thus, taxpayer filed its petition for review before the Supreme Court. Instead of filing a reply to the comments of the respondent, taxpayer filed a Motion to Withdraw, praying that the case be dismissed without prejudice. According to petitioner, the amount of tax credit being claimed for 2002 would just be included in its future claims for issuance of a tax credit certificate. The Court granted the motion but with prejudice. The Supreme Court said that by withdrawing the appeal, the taxpayer is deemed to have accepted the decision of the CTA. And since the CTA had already denied taxpayer's request for the issuance of TCC for insufficiency of evidence, it may no longer be included in taxpayer's future claims. Taxpayer cannot be allowed to circumvent the denial of its request for tax credit by abandoning its appeal and filing a new claim. "An appellant who withdraws his appeal x x x must face the consequence of his withdrawal, such as the decision of the court *a quo* becoming final and executory." (***Central Luzon Drug Corporation vs. CIR***, G.R. No. 181371, March 2, 2011)

2. PAGCOR is subject to income tax but remains exempt from the imposition of value-added tax.

With the amendment by R.A. No. 9337 of Section 27 (c) of the National Internal Revenue Code of 1997 by omitting PAGCOR from the list of government corporations exempt for income tax, the legislative intent is to require PAGCOR to pay corporate income tax. However, nowhere in R.A. No. 9337 is it provided that PAGCOR can be subjected to VAT. Thus, the provision of RR No. 16-2005, which the respondent BIR issued to implement the VAT law, subjecting PAGCOR to 10% VAT is invalid for being contrary to R.A. No. 9337. (***Philippine Amusement and Gaming Corporation vs. BIR***, G.R. No. 172087, March 15, 2011)

3. A "guaranteed continuity clause" in a life insurance policy is considered option to renew, subject to DST.

Taxpayer, a corporation engaged in the life insurance business, issued the "Money Plus Plan", an ordinary term life insurance policy. The Money Plus Plan is a 20-year term ordinary life insurance plan with a "guaranteed continuity clause" which allows the policy holder to continue the policy after the 20-year term subject to certain conditions. The Supreme Court noted that what was actually offered in the Money Plus Plan was the option to renew the policy, after the expiration of the original term. Although the policy would continue with essentially the same

terms and conditions, the fact is, its maturity date, coverage and premium rate would have changed. The acceptance of the offer would give rise to the renewal of the original policy, making it subject to the documentary stamp tax under Section 183 of the Tax Code (decided under the 1977 Code), as an insurance renewed upon the life of the insured. (**Commissioner of Internal Revenue vs. vs. Manila Banker's Life Insurance Corporation**, G.R. No. 169103, March 16, 2011)

4. In a group life insurance policy, whenever a master policy admits of another member, another life is insured and covered, thereby increase in premium is subject to DST.

The taxpayer was assessed DST on the additional premiums for the additional members to the existing master group life insurance policies. In sustain the assessment, the Supreme Court held that whenever a master policy admits of another member, another life is insured and covered. The insurance company, by approving the addition of another member to the existing master policy, is once more exercising its privilege to conduct the business of insurance, because it is yet again insuring a life. It does not matter that it does not issue another policy to effect the change, the fact remains that insurance on another life is made and the relationship of insurer and insured is created between the insurer and the additional member of the master policy. Every time the insurer registers and attaches an enrollment card to an existing master policy, it exercises its privilege to conduct its business of insurance, which is subject to DST as insurance made upon a life under Section 183 of the (1977) Tax Code. (**Commissioner of Internal Revenue vs. vs. Manila Banker's Life Insurance Corporation**, G.R. No. 169103, March 16, 2011)