BDB Law
Du-Baladad and Associates

TAX LAW FOR BUSINESS
Atty. Filamer D. Miguel

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

PHL 2011 tax issues in retrospect

FOR 2011, I feel privileged to have written five articles thus far under this column, which tackled different and significant tax-related issues. In this year of the Water Dragon, I thought it wise to discuss the recent developments, if any, on each of the previous topics I have written for purposes of updating everyone's data bank.

In my first article entitled "Exploring dream of achieving tax compromise" published on May 26, 2011, I discussed the latest development in the mediation of tax cases before the Court of Tax Appeals (CTA), in particular the Supreme Court Resolution dated January 18, 2011, which approved the interim guidelines for implementing mediation in the CTA. With the ongoing skirmish between the President and the Chief Justice, with impeachment charges against the latter, and criticisms of "ill-mannered, unpresidential behavior" against the former, it is not surprising that as of date, the guidelines for implementing CTA mediation have remained interim despite the lapse of almost one year.

My second article entitled "Calamity tax relief needed" published on June 30, 2011, delved on the urgency of approving the proposed Senate Bill 2443 authored by Sen. Manny B. Villar.

The bill is still pending in the Committee of Ways and Means as of September 22, 2010. No significant changes were introduced with the Congress's attention diverted to the crucial election cases against the former President Gloria Macapagal-Arroyo and former Sen. Miguel Zubiri as well as other controversial bills like the reproductive-health bill.

"PHL tax on alcohol stirs global dispute" was my third article published on August 25, 2011, where I discussed the latest World Trade Organization (WTO) ruling declaring as illegal the Philippine tax on imported liquor and distilled spirits. The dispute arose sometime in 2009 when European Union (EU) lodged its complaint and the US followed in January 2010. The Philippines duly filed an appeal in September 2011 assailing the August 15 decision rendered by the WTO.

As anticipated, on December 21, the WTO Appellate Body rejected the Philippines's appeal. EU Trade Commissioner Karel De Gucht remarked that, "The Appellate Body has confirmed that the excise tax regime in the Philippines is designed and applied to protect the domestic industry against the competition of imported spirits and violates the important principle of nondiscrimination enshrined in the WTO agreements."

In full accord therewith, the US Distilled Spirits Council (DISCUS) President Peter Cressy noted that the Philippines's excise-tax system is a textbook case of discrimination against imported products as it levies a tax on imported spirits up to 43 times greater than on domestically produced spirits. With the increasing pressure to take immediate steps to bring its tax system into compliance with WTO rules, what's the recourse left for our country? The current tax and legal predicaments confronting our aviation industry was the subject matter of my fourth article, titled "Problems beset PHL air transport industry," published on October 13, 2011.

The Bureau of Internal Revenue (BIR) declared that it has already addressed the problem raised by foreign carriers on the common-carriers tax and that further amendments must be addressed to Congress. "Whatever we can do administratively we have already done," Internal Revenue Commissioner Kim Henares was quoted as having said. She also said the BIR has already made the necessary adjustments and that if the foreign carriers were still not satisfied with the changes, they should go to Congress and lobby for further amendments.

Finally, "VAT invoice fundamentals" published on December 1, 2011, discussed the new VAT invoicing requirement recently issued by the BIR.

Notwithstanding the issuance, the BIR placed a salon under surveillance for noncompliance with the invoicing requirements mandated by the Tax Code. On the first week of January 2012, the BIR filed with the Department of Justice a complaint for tax evasion against former Sen. Freddie Webb's children, Fritz and Katherine Webb as president and treasurer, respectively, of Basement Salon Corp. for allegedly failing to issue receipts to customers. For the year 2012, we all look forward to a better and more efficient tax system, as well as fairer and more equitable court and BIR issuances. Bonne année et bonne santé!

* * * *

The author is a senior associate of Du-Baladad and Associates Law Offices, a member firm of World Tax Services Alliance.

The article is for general information only and is not intended, nor should be construed, as a substitute for tax, legal or financial advice on any specific matter. Applicability of this article to any actual or particular tax or legal issue should be supported therefore by a professional study or advice. If you have any comments or questions concerning the article, you may e-mail the author at filamer.miguel@bdblaw.com.ph*, or call 403-2001, local 360.*