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Pay up first! A real-property tax story

AN owner of a real property, or a person having interest therein, is liable for the payment of real-property taxes. While being an owner, or being a person having interest, he will receive an assessment from the assessment and treasury office of a city or municipality. He may, however, disagree or question such assessment if he finds that it was unreasonable, incorrect, or illegal.

There are two situations when a taxpayer may question a real-property tax assessment: *first*, the taxpayer questions the reasonableness or correctness of the assessment; or, *second*, the taxpayer questions the legality or validity of the assessment.

In the first situation, the taxpayer must first pay under protest the assessed tax. In the event that the protest is denied, or not acted upon within 60 days from filing, the taxpayer may then file an appeal with the Local Board of Assessment Appeals (LBAA). The LBAA has 120 days from the date of receipt of such appeal to render a decision. When the taxpayer remains unsatisfied with the decision of the LBAA, the taxpayer may elevate the case to the Central Board of Assessment Appeals within 30 days from receipt of the adverse decision. If still aggrieved, the taxpayer may seek judicial intervention before the Court of Tax Appeals (CTA) En Banc.

As for the second situation, the taxpayer is assailing the authority and power of the assessor to impose the assessment. He may also assail, in such situation, the authority and power of the treasurer to collect the real property tax. Such questions involve questions of law, thus, the taxpayer may appeal directly to the proper regional trial court (RTC) and if unsatisfied, he may raise an appeal from the RTC's decision to the Division of the CTA.

So, if a taxpayer is assailing an assessment because of an exemption granted under a franchise and/or the Local Government Code (LGC), what is the remedy that he must avail himself?

In a recent case, CTA EB 1392, promulgated on September 5, 2017, the CTA En Banc held that, if the owner or person having legal interest in a property is claiming exemption from payment of real-property tax allegedly provided under its franchise and Section 234(c) of the LGC of 1991, he must first pay under protest the questioned assessment as required under Section 252(a) of the LGC of 1991. The CTA En Banc held that "the payment of the tax under the questioned assessment is mandatory to vest LBAA with jurisdiction to entertain the petition". It will, therefore, be fatal for a taxpayer to protest a real property tax assessment, through a claim of a tax exemption, if he fails to pay the assessed real-property tax under protest, as such omission will warrant the dismissal of his case.

Thus, while the taxpayer may have a valid ground for nonpayment of real- property taxes, it must still comply with the proper procedures in assailing a real property assessment, otherwise, such assessment will become final and executory.

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