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TAX LAW FOR BUSINESS

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Opportunity amid adversity: Claiming disallowed input VAT as deductions from taxable income

Taxes are the lifeblood of the government. This well-used legal maxim is mainly the reason that makes claiming tax refunds tedious. This means that Courts should be wary in granting entitlement to tax refunds, and that applications for such should be placed under the most extensive of scrutinies.

This also means that the burden of proving entitlement to tax refunds fall on the shoulders of the taxpayer. The same applies in cases of refunding input value-added tax (VAT) incurred in relation to zero-rated sales. There are several tedious requirements that need to be met before such an entitlement is established. However, given recent developments in the Court of Tax Appeals (CTA) cases, all is not lost in case a taxpayer should find itself unable to prove its entitlement to input VAT refund.

Of particular interest is the CTA decision in CTA Case 8934, dated October 11. In the said case, the taxpayer involved was being assessed by the Bureau of Internal Revenue (BIR) for deficiency income tax. The BIR maintains that the taxpayer cannot validly deduct its input VAT refund claim that was denied by the Office of the Secretary of Finance. However, the CTA ruled that the denied VAT refund qualifies as a deductible loss. The court reasoned that the taxpayer, prior to the denial of the claim, had reasonable expectation of receiving the refund. Further, upon receiving the denial, it has no other means of compensating the said loss. And looking at the circumstances, the denial of the input VAT refund falls under the definition of deductible loss under the National Internal Revenue Code of 1997, as amended, and current BIR rules. Thus, the CTA sustained the deduction made by the taxpayer, and nullified the BIR's assessment on the said item. Note that this is contracting to issuances of the BIR, which do not allow input taxes as deductions for income tax purposes.

A word of caution, though, for those considering such a move. The facts of the case involve an input VAT refund that was denied in the administrative level. Thus, whether the input VAT refund denied by the courts can be valid deductions from taxable income is still unsettled. Further, CTA decisions, as the CTA itself will admit, do not create binding legal precedent upon itself. Only decisions of the Supreme Court (SC) create binding legal precedent that obliges other courts to follow. As such, until the SC affirms the said decision, it has yet to attain the status of legal precedent. Furthermore, there are currently no indications that the case has already attained finality, and is thus open to further scrutiny through several reliefs provided under the rules of the CTA.

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