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Filing and processing of refund claims

Last month, the Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular 89-2017 (RMC 89-17), which amended the previously issued rules relative to the processing of claims for refund/issuance of tax credit certificate (TCC) and the required revenue officials authorized to approve said claims.

One of the significant changes introduced by the new circular pertains to the value added tax (VAT) claims by direct exporters. Based on the old rules, all claims are filed with the respective revenue district offices (RDOs) of the claimant. In the new circular, however, all VAT claims by direct exporters should be filed with and processed by the VAT Credit Audit Division (VCAD). This is not mandatory for taxpayers under the jurisdiction of the large taxpayers service, who may either file with the large taxpayers division, where they are respectively registered, or file with the VCAD. Claims processed by the VCAD shall be reviewed by the Tax Audit Review Division (TARD) prior to the approval by the final approving revenue official. The revenue official authorized to finally approve a claim shall either be the Assistant Commissioner-Assessment Service, Deputy Commissioner-Operations Group or the Commissioner, depending on the amount of the claim and/or the amount granted.

For the other refund/TCC claims by taxpayers registered with the RDOs, including VAT claims by indirect exporters, the same should be filed with and processed by the concerned RDO, and shall be reviewed by the Assessment Division of the Region. The regional director shall be the final approving authority for claims amounting to P10 million and below. Upon the recommendation by the regional director, claims exceeding P10 million shall be forwarded to the TARD for further review prior to the final approval by the authorized revenue official.

Aside from specifying the revenue offices and the revenue officials authorized to process, review and approve the claim, the new circular also clarified/added rules on the timeframe for the processing of VAT refund/TCC claims for input taxes related/attributable to zero-rated sales/receipts under Section 112 of the Tax Code. This is in relation to the 120-day period given to the Commissioner to act on the application for refund/TCC, which, as clarified by RMC 054-14, is deemed denied if no action is made within the said 120-day period.

In the past, there had been controversies as to when the 120-day period commences to run, considering that the law says that it should start from the submission of complete documents in support of the application. By implication, upon the issuance of RMC 054-14, the 120-day period should be counted from the date of filing of the application, as the same circular requires the submission of the complete documents upon the filing of the application. This is made clearer by RMC 89-17 as it now specifically states that the 120-day period shall start from the date of filing of the application.

In addition to further clarifying the commencement of the 120-day period, RMC 89-17 split this 120-day period into the different stages in the processing/approval of the application for input tax refund. For claims processed by the RDO or the VCAD, the same should be forwarded to the TARD within 80 calendar days from the date of the filing of the application. Except for justifiable reasons, the TARD shall not accept the docket beyond this prescribed 80-day period. The TARD, on the other hand, should transmit the docket to the approving official within 100 days from the filing of the application and for the approving official to act on the recommended claim within the 120th day from the receipt of the application by the processing office.

Placing internal timelines in each of the processing/reviewing revenue offices may contribute in the speedy processing of a taxpayer’s claim. However, it may also result in the shortening of the supposedly 120-day period allowed for the BIR to act on a claim, to the detriment of the claimant. For instance, what happens if the 80-day period is not observed by the RDO, the regional office or the VCAD? Considering that the docket will not be accepted by the TARD beyond this period, does this mean that the claim will no longer be processed further? And if so, will this be considered a deemed denial of the claim, or will there be actual issuance of a denial of the claim? Similarly, if the TARD fails to complete its review and submit to the approving official before the end of the 100th day, is there already a deemed denial? Also, while the circular requires that the approval by the final approving authority be made within the 120th day, there are instances that the claim is still subject to further evaluation/review/approval by other government agencies, such as the Bureau of Customs (BOC). In this instance, when is the claim considered granted—approval by the BIR or by the BOC? These are just among many questions and concerns in relation to this new issuance. We hope that further clarifications be issued to guide the taxpayers in chasing their claims.

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