



**Sept Balusdan**

## **TAX LAW FOR BUSINESS**

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### **It's tax time! Let's get your money back!**

The bulk of our government's revenues come from the income tax and the value-added tax (VAT). These taxes acquired regularity in their imposition upon both corporate and individual taxpayers.

As a rule, both individual taxpayers and corporate taxpayers are required to file their quarterly and annual income-tax returns (ITRs). The quarterly income tax returns for individual taxpayers are filed within 45 days from the close of each taxable quarter. On the other hand, the quarterly ITRs for corporate taxpayers are filed within 60 days from the close of the taxable quarter. There is no difference though in deadline for the filing of the annual ITRs for both individual and corporate taxpayers, which is on or before April 15 of the following year, or the 15th day of the fourth month following the close of the fiscal year for corporate taxpayers.

In the filing of ITRs, the advent of the Tax Reform for Acceleration and Inclusion (TRAIN) law or Republic Act (RA) 10963, included a limitation that the ITRs for both individuals and corporations, shall consist of a maximum of four pages in paper or electronic form and shall contain only the information enumerated under the new provision. Further, it is worthy to note that RA 10963 institutionalized the substituted filing of ITR of purely compensation income earners, by inserting the new Section 51(A) in our Tax Code.

After filing, it's time to pay the taxes. Since the Philippines adheres to the "pay as you file" system, the general rule is that imposable taxes shall be paid by the person or corporation subject thereto at the time the return is filed. The taxpayer, though, may ask for an extension of time to pay, which, at times, depends upon the discretion of the tax authority and only in meritorious cases.

In comparison, there is variation when it comes to the filing of returns and payment of the VAT. A person liable for VAT should file a quarterly VAT return, but shall pay on a monthly basis. In paying the VAT, the monthly VAT declaration shall be filed within 20 days following the end of the month, while the quarterly VAT return shall be filed within 25 days following the close of each quarter.

The administration of taxes does not always end upon the collection by the Bureau of Internal Revenue (BIR), but rather upon refund or issuance of a tax-credit certificate. A taxpayer may ask for a refund of erroneously, excessively or illegally assessed or collected taxes, whether as a liability or penalty, applying Section 229 of the Tax Code. On the other hand, the taxpayer may ask for a refund of the creditable input taxes attributable to its zero-rated or effectively zero-rated transactions, applying Section 112 of the Tax Code. Note that Sections 229 and 112 differ as to concept and as to application.

In claiming tax refunds, the taxpayer must first file an administrative claim before the BIR in a form of a letter, discussing the grounds for the refund and submitting all supporting documents for such claim. For refunds of erroneously or illegally paid taxes, the taxpayer should file the administrative claim within two years from the payment of the tax; while for input VAT refund, the claim should be filed within two years from the close of the taxable quarter when the sale was made. The taxpayer has 30 days from receipt of the decision of the BIR to elevate the claim to the Court of Tax Appeals (CTA) via a petition for review.

Note though that in a refund claim for erroneously paid taxes, both the administrative claim and the judicial claim should both be filed within two years from the date of payment. Thus, in case there is inaction on the part of the BIR, the taxpayer should ensure the filing of Petition for Review before the CTA before the two-year period ends.

Prior to the TRAIN law, the law specified that the BIR has 120 days from submission of complete documents for a claim for input VAT refund to decide on the administrative claim and that failure to do so shall be deemed denial of the claim. Upon the advent of the TRAIN law, the BIR now has only 90 days from the submission of official receipts or invoices and other documents, to decide

on the administrative claim; and failure to do so shall subject the BIR officer to punishment under Section 269 of the Tax Code. The new law and the implementing rules do not specify if such inaction within the 90-day period shall be deemed denial of the claim. This issue has been raised in a series of consultations but the clarification seems to remain unheeded by the tax authorities. Nonetheless, it is to my mind that, such inaction, should still be treated as deemed denial, in order for the taxpayer to elevate its claim to the CTA, same as the old rule. Otherwise, this may amount to a violation of taxpayer's right to property or due process.

In claiming for tax refunds, what is really significant is the substantiation of the claim. Sometimes, taxpayers lose billions merely due to lack of compliance with the substantiation requirements. To avoid this tragedy, taxpayers should be more alert in complying with pertinent Revenue Regulations. Upon passage of the TRAIN law, there are issuances adding requirements in claiming for refunds, such as RR18-2018, RMC 17-2018, RMC 2-2018, and, of course, the undying invoicing requirements under previous regulations. As long as taxpayers comply with the requirements under the law and regulations, there should be no reason for the BIR to hold on to your money.

"It's tax time, prepare your purse, but don't forget your papers."

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