

What's Inside...

INSIGHTS is a monthly publication of BDB LAW to inform, update and provide perspectives to our clients and readers on significant tax-related court decisions and regulatory issuances (includes BIR, SEC, BSP and various government agencies).

20/F Chatham House
Valero cor. Rufino Sts.



Salcedo Village
Makati 1227



www.bdblaw.com.ph
info@bdblaw.com.ph



T: (632) 8403-2001



Copyright © 2024 by
Du-Baladad and Associates
(BDB Law). All rights reserved.
No part of this issue covered by
this copyright may be produced
and/or used in any form or by
any means – graphic, electronic
and mechanical without the
written permission of the
publisher.

PAGE NOS.

Highlights for AUGUST 2024

1

Significant Court Decisions

- Supreme Court 2
- Court of Tax Appeals 3-7

Significant Regulatory Issuances

- Bureau of Internal Revenue 8-18
- Securities and Exchange Commission 19

Published Article

- Tax on Prizes and Awards 20-22

Our Experts

- THE PERSONALITIES 23

Glossary

24

MEMBER FIRM OF

wts global

HIGHLIGHTS for AUGUST 2024

HIGHLIGHTS

SUPREME COURT DECISIONS

- Only the carry-over option in relation to the unutilized CWT is irrevocable. (*Stablewood Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206517, May 13, 2024, Uploaded on July 17, 2024)
- Carrying over unutilized CWT while the corporation exists makes that option irrevocable, regardless of subsequent dissolution of the corporation. (*Stablewood Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 206517, May 13, 2024, Uploaded on July 17, 2024)

COURT OF TAX APPEALS DECISIONS

- The sales threshold requirement of an IPA-registered company applies to the income tax incentive, not the excise tax incentive. (*Petron Corporation vs. Commissioner of Internal Revenue*, CTA Case Nos. 10232, 10266 & 10267, August 15, 2024)
- A valid LOA is not required for reinvestigating deficiency tax assessments. (*Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10343, August 22, 2024)
- A Transmittal Form, which is not an audit report, listing an allegedly unauthorized officer would not invalidate the assessment process. (*Adelantado Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10406, August 15, 2024)
- Letters issued by a Revenue District Officer are not appealable to the CTA. (*Alphaland Southgate Tower, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10669, August 13, 2024)
- Even in the context of a refund claim, the corporate veil may only be pierced if it can be demonstrated that the corporate structure was misused to the extent that it resulted in injustice, fraud, or a crime committed against another party, thereby disregarding their rights. (*Commissioner of Internal Revenue vs. Asurion Hong Kong Limited – ROHQ*, CTA EB No. 2752 (CTA Case No. 10121), August 6, 2024)
- Cases before the CTA are litigated de novo. (*Commissioner of Internal Revenue vs. Oceanagold (Philippines), Inc.*, CTA EB No. 2780 (CTA Case No. 10382), August 30, 2024)

BIR ISSUANCES

- RR No. 14-2024, August 14, 2024 – This provides guidelines on modes of disposition of seized and forfeited articles.
- RR No. 15-2024, August 15, 2024 – This prescribes policies and guidelines in the mandatory registration of persons engaged in business and administrative sanctions and criminal liabilities for non-registration.
- RMC No. 87-2024, August 7, 2024 – This pertains to FAQs relative to the Filing of Tax Returns and Payments of Taxes pursuant to the EOPT Act.
- RMC 91-2024, August 14, 2024 – This provides clarification on registration procedures pursuant to RR No. 11-2024.
- RMC 96-2024, August 29, 2024 – This provides procedures for the implantation of Section 206 of the Tax Code.

SEC ISSUANCES

- SEC Memorandum Circular No. 13 Series of 2024, August 30, 2024 – This guidelines on Enhanced Compliance Incentive Plan.

SUPREME COURT DECISION HIGHLIGHTS

UPDATES

Only the carry-over option in relation to the unutilized CWT is irrevocable.

The case involves a claim for a refund of excess CWT for TY 2005. In its 2005 Annual ITR, the taxpayer initially elected to refund or obtain a TCC for its unutilized CWT. However, in its Quarterly ITRs for the first to third quarters of 2006, the taxpayer carried over the tax overpayment instead. While the case was still pending before the CTA, the taxpayer filed for corporate dissolution with the SEC, by amending AOI to shorten its corporate term. The taxpayer argued that its original election to refund or obtain a TCC was irrevocable, while the CIR contended that, by carrying over the excess CWT in 2006, the taxpayer had effectively chosen the carry-over option.

The Supreme Court ruled against the taxpayer, clarifying that while a taxpayer may either carry over excess CWT to offset future tax liabilities or apply for a refund or issuance of TCC, only the carry-over option is irrevocable. If a taxpayer initially opts for a refund or TCC but later carries over the excess CWT, the carry-over election becomes irrevocable.

In this case, the taxpayer's original choice to refund or obtain a TCC was not irrevocable, and its subsequent carry-over of the unutilized CWT in 2006 became irrevocable.

(Stablewood Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206517, May 13, 2024, Uploaded on July 17, 2024)

Carrying over unutilized CWT while the corporation exists makes that option irrevocable, regardless of subsequent dissolution of the corporation.

(Refer to the facts stated in the immediately preceding case.)

The taxpayer argued that the irrevocability doctrine regarding unutilized CWT should no longer apply once a corporation ceases operations. It claimed that at the time it filed its judicial claim for a refund, it was already in the process of dissolution and had taken steps related to that dissolution.

The Supreme Court disagreed. It ruled that the taxpayer continued to exist because, in cases of voluntary dissolution by shortening the corporate term, a corporation is not considered dissolved until the SEC approves the amendment to its AOI and the amended term expires. In this case, there was no proof that the SEC had approved the amendment, meaning the taxpayer remained an existing corporation.

Additionally, even if the taxpayer had already been dissolved, the Court held that dissolution alone does not automatically entitle it to a refund. A refund may only be granted if a corporation permanently ceases operations before utilizing its carried-over tax credits, making it impossible to apply them. However, if the taxpayer had already carried over its unutilized CWT before dissolution, the irrevocability rule still applies. Since the taxpayer had already carried over its unutilized CWT for 2005 in its Quarterly ITRs for the first to third quarters of 2006, which was before its dissolution, the irrevocability doctrine remains applicable to the taxpayer.

(Stablewood Philippines, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206517, May 13, 2024, Uploaded on July 17, 2024)

COURT OF TAX APPEALS DECISION HIGHLIGHTS

The sales threshold requirement of an IPA-registered company applies to the income tax incentive, not the excise tax incentive.

Unleaded gasoline and fuel oil (collectively, “petroleum products”) were sold to a company registered with SBMA and designated as a tax-exempt entity. The CIR argued that the taxpayer was not entitled to a refund, claiming that the taxpayer’s customer failed to meet conditions specified in its SBMA-issued CRTE, particularly that its customer’s sales within the customs territory exceeded the allowable 30% threshold.

The CTA partially granted the taxpayer’s refund claim. It held that the failure of the taxpayer’s customer to meet the 30% threshold did not negate the latter’s excise tax exemption. The CRTE provision only subjects the SBMA-registered entity to income tax based on its total income within the customs territory, not to other taxes like excise tax, which are distinct from income tax obligations. Simply put, the sales threshold requirement under the CRTE applies to the income tax incentive, not the excise tax incentive. (*Petron Corporation vs. Commissioner of Internal Revenue*, CTA Case Nos. 10232, 10266 & 10267, August 15, 2024)

A valid LOA is not required for reinvestigating deficiency tax assessments.

The taxpayer was assessed for alleged deficiency taxes for taxable year 2012. The taxpayer argued that the CIR violated its due process rights in conducting the audit and issuing the assessment. Specifically, the taxpayer claimed that (1) the RO and GS assigned to review its Request for Reinvestigation were not authorized by a valid LOA, and (2) the FLD and FDDA did not contain a specific demand for payment, leaving the taxpayer’s liability uncertain.

The CTA ruled that an LOA is not required to authorize the RO and GS to reinvestigate deficiency tax assessments. Although the law mandates an LOA for an initial examination of a taxpayer’s books to recommend an assessment, it does not explicitly require an LOA for issuing recommendations regarding the FDDA. Furthermore, even if an LOA were necessary for the reinvestigation, its absence would affect only the resulting decision, such as the FDDA, rather than the entire assessment.

(*Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10343, August 22, 2024)

A clear demand for payment and a specified deadline in the assessment are sufficient to uphold its validity.

(Refer to the facts stated in the immediately preceding case.)

The CTA found that the FLD, along with the assessment notices, contained a sufficient demand for payment of a definite tax amount. The key to a valid assessment is a clear indication of the amount due and a deadline for payment. Since the FLD specified both, it could not be deemed void for lacking material details. The phrase “you are requested to pay your aforesaid deficiency” does not invalidate the FLD/FAN, and the “30 days from receipt”

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

UPDATES

language provides a clear payment deadline, making the interest due calculable.

The CTA further explained that is proscribed is an indefinite amount of total tax due or liability, not the amount of interest. Nevertheless, even assuming that the amount of interest should also be definite and computed as of the due date, the same is still determinable. The FLD/FAN in the instant case clearly indicates the dates when the interest commences to run and end on the face of the FAN and the attached Details of Discrepancies. (*Fort Bonifacio Development Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10343, August 22, 2024)

A Transmittal Form, which is not an audit report, listing an allegedly unauthorized officer would not invalidate the assessment process.

The taxpayer was assessed for alleged deficiency taxes for taxable year 2015. During the audit, memorandums and audit reports recommending the issuance of assessment notices were prepared by an RO and GS, both of whom were authorized under a LOA signed by the regional director. However, the records showed that the name of another RO, who was not listed in the LOA, appeared in the transmittal form for the written report on personal or substituted service and assessment notices received by the taxpayer, which were duly stamped and signed by the Revenue District Offices and transmitted to the Assessment Division. Based on this, the taxpayer argued that the unauthorized RO had participated in the audit process, thereby invalidating the assessment.

The CTA found that the revenue officials responsible for auditing the taxpayer's books were properly authorized through a valid LOA. The CTA rejected the taxpayer's claim, noting that the unauthorized RO did not actually participate in the audit itself, and the assessment remained valid.

The CTA clarified that the document listing the name of the purportedly unauthorized officer was simply a transmittal form. This form related only to the written report on personal or substituted service and the assessment notices that the taxpayer had duly received, stamped, and signed. It was not an audit report nor a recommendation for issuing an assessment notice, and thus did not invalidate the assessment process. (*Adelantado Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10406, August 15, 2024)

Letters issued by a Revenue District Officer are not appealable to the CTA.

The taxpayer filed a claim for a VAT refund with the CTA, where the appeal was based on a letter issued by a Revenue District Officer, stating that the application was rejected due to incomplete documentation. The taxpayer argued that the CIR's refusal to accept the claim should be treated as a full denial. In contrast, the CIR argued that the CTA has no jurisdiction over the judicial claim for refund, asserting that the application was not accepted due

COURT OF TAX APPEALS DECISION HIGHLIGHTS

to the taxpayer's failure to submit complete supporting documents, which did not qualify as a formal submission.

The CTA dismissed the case, ruling that it lacked jurisdiction over the refund claim. It clarified that only a decision, ruling, or inaction by the CIR—or by specific delegated BIR officials—is appealable to the CTA. The authority to decide refund claims has been delegated to certain officials, including the Deputy Commissioner of the Operations Group, the Assistant Commissioner, and the Regional Director, depending on the case. For regional cases, the Regional Director is responsible for making a decision. However, in this case, the taxpayer appealed a letter from the Revenue District Officer, which is not subject to appeal before the CTA. (*Sankyu-ATS Consortium-B vs. Commissioner of Internal Revenue*, CTA Case No. 10495, August 6, 2024)

An appeal filed within 30 days of the FDDA issuance is considered timely, even if the 180-day period following the taxpayer's protest has expired.

The taxpayer was assessed for deficiency taxes and filed a protest. However, the CIR did not issue an FDDA within the 180-day period and later issued a WDL instead. In response to the WDL, the taxpayer filed a request for lifting of WDL. Thereafter, due to the taxpayer's claim of non-receipt of the FDDA, the CIR reissued an undated FDDA, which the taxpayer then acknowledged. Within 30 days of receiving the FDDA, the taxpayer filed a Petition for Review with the CTA. The CIR argued that the Petition was filed too late, asserting that the taxpayer should have appealed within 30 days of receiving the WDL. According to the CIR, the issuance of the WDL indicated that the protest was denied and the assessments had become final, executory, and demandable.

The CTA ruled in favor of the taxpayer, citing a recent Supreme Court decision. It found that the taxpayer had timely filed both its protest and request for reconsideration, triggering the 180-day period for the CIR to decide. Since the CIR failed to serve the FDDA to the taxpayer within this timeframe, the taxpayer was justified in believing that no final decision had been made. The CTA also noted that the taxpayer's request to lift the WDL indicated it was still awaiting a formal resolution of its protest. The later issuance of an undated FDDA constituted the CIR's final decision, making it appealable. Thus, the taxpayer had 30 days from receipt of the FDDA to file its Petition for Review, which it did within the allowable period. (*Alphaland Southgate Tower, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10669, August 13, 2024)

Proper service of the PAN must be made to the board of directors or authorized officers

The taxpayer challenged the validity of a tax assessment, claiming the PAN was improperly served since it was left with an unauthorized person after the taxpayer refused to receive it. In contrast, the CIR argued that the PAN was delivered to an individual at the taxpayer's office who was authorized to receive assessment notices and had even filed the Request for

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

UPDATES

in case of a corporation.

Reinvestigation. Thus, the CIR maintained that the service qualified as personal service.

The CTA ruled in favor of the taxpayer, finding no evidence that the PAN was properly served. The court outlined the acceptable methods of serving a PAN: (1) personal delivery to the concerned party; (2) substituted service in specific situations; or (3) service by mail.

For personal service, the PAN must be delivered to the taxpayer's registered address or directly to the taxpayer, while substituted service is allowed only if (1) the taxpayer is absent from the registered address, (2) no one is available to receive the notice, or (3) the taxpayer refuses to accept it. As a corporation, the taxpayer should always be reachable at its address, and proper service of the PAN must be made to the board of directors or authorized officers.

In this case, the CIR failed to prove that the PAN was served through any of these valid methods. There was no evidence that the individual who received the PAN was authorized to do so, making the CIR's claim of proper personal service unfounded. Hence, the taxpayer should have been considered as having refused service. Considering this, without following proper procedures for substituted service—the CTA held that the taxpayer's right to due process was violated. As a result, both the PAN and the subsequent FLD were declared void. (*Xytrix Systems Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10629, August 6, 2024)

Even in the context of a refund claim, the corporate veil may only be pierced if it can be demonstrated that the corporate structure was misused to the extent that it resulted in injustice, fraud, or a crime committed against another party, thereby disregarding their rights.

This is a claim for a refund of unutilized input VAT. The CIR argues that the taxpayer failed to prove that the services were rendered in the Philippines. The CIR also contends that the entity involved in the transaction cannot be considered as "another person doing business in the Philippines" because it is related to the taxpayer, with both entities being managed by the same corporate officers and sharing the same address in the United States. As a result, the CIR suggests that the corporate veil should be pierced.

In denying the CIR's claim, the CTA En Banc emphasized that the corporation is an artificial being which has a separate and distinct personality from its officials. The CTA specifies instances where the corporate veil may be pierced which includes the corporation fiction was misused to such extent that injustice, fraud, or crime as committed against another, in disregard of rights.

Here, the circumstances cited by the CIR were not among those envisioned by the law that will allow the piercing of the corporate veil of the corporation. Thus, in the absence of proof as to any of such circumstances, there is no basis to disregard such corporate fiction. (*Commissioner of Internal Revenue vs.*

COURT OF TAX APPEALS

DECISION HIGHLIGHTS

UPDATES

Asurion Hong Kong Limited – ROHQ, CTA EB No. 2752 (CTA Case No. 10121), August 6, 2024)

Cases before the CTA are litigated de novo.

The CIR argued that the taxpayer is not entitled to a partial refund of its unutilized input VAT tied to zero-rated sales, asserting that he had denied the taxpayer's administrative refund claim. He contended that the CTA Division's review should be limited to assessing the legality of his decision based on evidence submitted during the administrative stage, given the CTA's appellate role.

The CTA En Banc disagreed, ruling that cases are litigated anew before the CTA, allowing the taxpayer to submit additional evidence not presented at the administrative level. The CTA explained that in VAT refund cases, two scenarios are possible: (1) denial due to the taxpayer's failure to submit complete documents, which requires the taxpayer to substantiate its refund claim with full documentation at both levels; or (2) denial by inaction or for reasons unrelated to document submission, allowing the taxpayer to present all relevant evidence before the CTA.

In this case, the CIR's denial fell under the second scenario, as it was not based on incomplete documentation following a specific request. Consequently, the CTA is permitted to consider all evidence presented by the taxpayer in support of its refund claim, even if it was not submitted to the CIR during the administrative process. (*Commissioner of Internal Revenue vs. Oceanagold (Philippines), Inc.*, CTA EB No. 2780 (CTA Case No. 10382), August 30, 2024)

BIR ISSUANCE

RR No. 14-2024, August 14, 2024 - This provides guidelines on modes of disposition of seized and forfeited articles.

The following are the modes of disposition of seized/forfeited articles:

Modes of Disposition	Definition	Article Subject of Disposition	Requirements
Public Auction	Mode of sale in which seized articles are being sold to multiple buyers thru competitive bidding	Seized articles prejudicial to the enforcement of the law and other regulated articles	None
Negotiated or Private Sale	Mode of sale in which seized articles that remain unsold after the conduct of two (2) failed public auctions are being sold	Seized articles not suitable for official use or donation	(a) Conduct of two (2) failed public auctions; and (b) Prior approval of Secretary of Finance; Exception: In the case of personal properties , the abovementioned two (2) requirements may be dispensed with.
Official Use of the BIR	Utilization of seized articles that are suitable for official use	Seized articles suitable for official use	(a) Conduct of two (2) failed public auctions; (b) Declaration of CIR that article is for official use; and (c) Prior approval of Secretary of Finance
Donation	Disposition to another government agency of seized	Seized articles not suitable for official use	(a) Conduct of two (2) failed public auctions;

BIR ISSUANCE

	articles that remain unsold after the conduct of two (2) failed public auctions		(b)Recommendation of CIR; and (c) Prior approval of Secretary of Finance
Destruction	Removal, disposal, and any other processes in an appropriate and most practicable manner that render seized articles unusable	Seized articles injurious to public health or prejudicial to the enforcement of the law	Order of the CIR or his/her duly authorized representative

RR No. 15-2024, August 15, 2024

This prescribes policies and guidelines in the mandatory registration of persons engaged in business and administrative sanctions and criminal liabilities for non-registration.

The following are the covered transactions:

- Sale and/or lease of goods and services through brick-and-mortar stores;
- E-commerce or online businesses;
- Operation of digital platforms, including e-marketplace platforms;
- Sale and/or lease of goods and services through digital platforms;
- Digital content creation and streaming;
- E-retailing of goods and services;
- Sale of creative or professional services, on-demand or freelance services or digital services supplied over the internet;
- Other forms of businesses other than those mentioned above which are conducted online.

The following are the forms of business operation with their corresponding required place of registration:

Form of Business Operation	Place of Registration
Brick-and-mortar stores	In case of its <i>Head Office</i> , at the BIR district office having jurisdiction over the place of business address. In case of its <i>Branch and/or Facility</i> , at the BIR district office having jurisdiction over the place of business address or location of the branch and/or facility.
Operating, Maintaining, or setting up an online presence or an online	It shall register its online store name with the BIR as an additional "business name" attached to the head office or branch managing or operating the

BIR ISSUANCE

UPDATES

online store for its Brick-and mortar store	said online store and shall not be registered as its branch.
Online business (thru website, webpage, page, platform, or application)	In case of <i>sole proprietors</i> , at the BIR district office having jurisdiction over the place of residence. In case of <i>corporations and other juridical entities</i> , at the BIR district office having jurisdiction over the principal place of business registered with Securities and Exchange Commission.

The following are the nature of violation with their corresponding sanctions:

Nature of Violation	Administrative Sanction
Late registration – voluntary registration	P1,000
Failure to register store name or business name	P1,000 per store name or business name
Failure to post COR/eCOR on the place of business or website, webpage, account, page, platform or application	P1,000 for every violation / per store name or business name
Lessors allowing lessees or online sellers/merchants to use to engage in business the premises or digital platform without BIR registration	P20,000 for each branch/store/establishment
Failure to obey or refusal to comply with the Closure/Takedown Order	P20,000
Failure to register Head Office or Branch – if the business or self-employed is discovered through various means, including: - During tax compliance verification drive - Ocular inspection or mission order - Upon BIR notification to register - Through third-party reports	P20,000 for Medium and Large Taxpayers P15,000 for Small Taxpayer P5,000 for Micro Taxpayer P50,000 for business subject to excise tax
Failure to register by covered persons	Suspension/Closure of business operation under a duly approved Closure/Takedown Order Criminal liability against the person concerned or against its responsible officers.

BIR ISSUANCE

UPDATES

RMC No. 87-2024, August 7, 2024

This pertains to FAQs relative to the Filing of Tax Returns and Payments of Taxes pursuant to the EOPT Act.

Q1: Are existing revenue issuances mandating the use of the Electronic Filing and Payment (eFPS) repealed by Section 3 of RR No. 4-2024?

A1: No. Section 3 of RR No. 4-2024 likewise provides that all tax returns shall now be filed electronically. If there is an advisory as to the unavailability of the eFPS, use the eBIRForms. If the eFPS, eBIRForms, and TSPs are not available, manual filing shall be allowed. Lastly, If the taxpayer is mandated to use the eFPS but is not able to enroll, use the eBIRForms.

Q2: What are the instances in which taxpayers mandated to file tax returns electronically are allowed to file manually?

A2: 1. When there is advisory on the unavailability of the system;
2. When the tax return form is not yet available in any of the electronic filing platforms; or
3. When there is justifiable reason as determined by the CIR or his authorized representative.

Q3: In case there is an advisory that the electronic filing/payment platforms are unavailable, are taxpayers mandated to use the same allowed to manually file and pay the taxes due anywhere?

A3: Yes. Taxpayers are allowed to manually file their tax returns and pay their taxes due to any Revenue Collection Officer (RCO) or Authorized Agent Bank (AAB).

Q4: Considering that the tax return filing is required to be done electronically, how can the attachments to the tax returns be submitted, if any?

A4: Electronically submit them using the Electronic Audited Financial Statements (eAFS)/eSubmission Facility, whichever is applicable. If unavailable, submit manually to the BIR district office which has jurisdiction.

Q5: What are the documents that should be submitted through eAFS and eSubmission Facility?

A5:

No.	Nature of Documents (Only those applicable to the respective taxpayer)	Manner of Submission	
		eAFS	e-Submission Facility
1	AFS	✓	
2	Notes to AFS	✓	
3	BIR Form Nos.: 1604C, 1604E, 1601EQ, 1601FQ, 1600		✓
4	SLS		✓
5	SLP		✓

BIR ISSUANCE

UPDATES

6	BIR Form No. 2304	✓	
7	BIR Form No. 2307	✓	
8	BIR Form No. 2316	✓	
9	BIR Form No. 1606	✓	
10	SAWT		✓
11	Validation Report from eSubmisison (SAWT)	✓	
12	Certificate of Compensation	✓	
13	Duly Approved Tax Debit Memo (if applicable)	✓	
14	Proof of Foreign Tax Credits (if applicable)	✓	
15	Proof of prior year's excess credits (if applicable)	✓	
16	Proof of other tax payments/credit (if applicable)	✓	
17	FRN as proof of eFiling in the eFPS (for eFPS Users/Filers)	✓	
18	Tax Return Receipt Confirmation as proof of eFiling in the eBIRForms (for eBIRForms Users/Filers)	✓	
19	Proof of payment/Acknowledgment Receipt of Payment	✓	
20	Certificate of Independent CPA duly accredited by the BIR	✓	
21	Statement of Management Responsibilities	✓	

Q6: Is the 25% surcharge for “wrong venue” filing still imposed on the taxpayer who manually paid the tax due outside the jurisdiction of the Revenue District Office (RDO) where the taxpayer is registered?

A6: No. The twenty-five (25%) surcharge shall no longer be imposed.

Q7: What are the available electronic payment (ePay) gateways for payment of taxes aside from the eFPS?

A7:

1. Land Bank of the Philippines (LBP) Link.Biz Portal
2. Development Bank of the Philippines (DBP) Pay Tax Online
3. Union Bank of the Philippines (UBP) Online /The Portal Payment Facilities
4. TSPs like MyEG or MAYA

Q8: In using eFPS for the payment of taxes, is opening of bank account necessary?

A8: Yes.

Q9: How can taxpayers file their tax returns and pay the corresponding taxes due electronically?

A9: A. eFPS
B. eBIRForms or TSP

Q10: If not yet enrolled in eFPS, how can mandated taxpayers file returns and pay their taxes?

A10: Use the eBIRForms for e-filing and pay the corresponding taxes electronically through any ePay facility or manually through any RCO or AAB.

Q11: Are there still cases where Banks receive Late-Filing and Payment?

A11: Yes. Taxpayers shall proceed to the RDO for computation of penalties and pay their taxes due to any AAB.

Q12: What are the guidelines in the filing of BIR Form No. 0605?

A12: If there is a previous tax computation, the BIR Form No. 0605 can be filed and paid electronically through the electronic platforms and ePay gateways. Where computation is needed, proceed to the RDO for assistance.

Q13: What are the guidelines to be observed in the issuance of check as mode of payment of tax due?

A13:	"Check" tendered to an AAB	Indicate in the space provided for after the phrase "PAY TO THE ORDER OF" the following data: 1. presenting/collecting bank or the bank where the payment is to be coursed and; 2. FAO (For the Account of) Bureau of Internal Revenue as payee
	Manager's Check (MC) or Cashier's Check (CC)	Issuing bank shall indicate in the space after the phrase "PAY TO THE ORDER OF" the following data: 1. presenting/collecting bank or the bank where the payment is to be coursed and;

BIR ISSUANCE

	2. FAO (For the Account of) Bureau of Internal Revenue as payee and under the *Account Name*, the Taxpayer's Name and TIN
"Check" paid through the RCO	Indicate in the space provided for after the phrase "PAY TO THE ORDER OF" the "Bureau of Internal Revenue"

Q14: If the receiving AAB's system is offline or unavailable, can taxpayers transfer to another AAB branch even if the name of the receiving AAB branch is already indicated on the check for payment of taxes due?

A14: Yes. Taxpayers may transfer to another AAB branch, provided that the branch is the same AAB.

RMC 91-2024, August 14, 2024

This provides clarification on registration procedures pursuant to RR No. 11-2024.

Registration Types and Period

Taxpayer Type	Period
Self-employed individuals, estate and trusts, corporations, and their branches	On or before the commencement of business
Corporations (Taxable or Non-Taxable)/One-Time Transaction	Before payment of any tax due
Corporations, Partnerships, Associations, Cooperatives, Government Agencies and Instrumentalities (GAIs)	Before or upon filing of any applicable tax return, statement, or declaration as required by the Tax Code
Employees	Within 10 days from date of employment
Application under EO No. 98, series of 1999	

Manual and Electronic Registration Options

Options	Platform
Manually at the RDOs	Registration using the Single Window Policy
New Business Registration (NewBizReg) Portal	https://www.bir.gov.ph/newbizreg/
Taxpayer Registration-Related Application (TRRA) Porta	https://web-services.bir.gov.ph/trraportal/

BIR ISSUANCE

UPDATES

Philippine Business Hub (PBH)	https://business.gov.ph/
Online Registration and Update System (ORUS)	https://orus.bir.gov.ph/home

Specific Guidelines for Online Sellers

- Business/trade names registered with the SEC/DTI as well as “store names” used in all online pages, accounts, websites, or e-commerce platforms shall be reflected as business names in the COR.
- An electronic copy of COR shall be posted on the sellers’ websites or profile pages at the e-commerce platform, and if the COR bears a QR Code, the same may also be posted.

Registration of Books of Accounts

Books of Accounts shall be registered thru ORUS in the following manner:

TYPE	DEADLINE FOR REGISTRATION	FREQUENCY
New Business Registration		
Manual Books of Accounts	Before the deadline for filing of the initial quarterly ITR or annual ITR, whichever comes earlier	Before the full consumption of the pages of the previously registered books
Existing Business Taxpayers or Subsequent Registration of Books of Accounts		
Manual Books of Accounts	Before the use of the books	Before the full consumption of the pages of the previously registered books
Permanently bound Loose Leaf Books of Accounts	Within fifteen (15) days after the end of each taxable year unless extended by the Commissioner or his duly authorized representative upon request of the taxpayer before the lapse of the said period	Annually
Computerized Books of Accounts	Within thirty (30) days from the close of each taxable year unless extended by the	Annually

	authorized representative upon request of the taxpayer before the lapse of the said period	
--	--	--

Transfer of Registration

It may be done by mere filing/submission of BIR Form No. 1905 as follows:

Taxpayer Type	Documentary Requirements and Remarks
Individuals Not Engaged in Business (E.O. 98/ONETT/Employee)	<p>Requirements:</p> <p>Two (2) original copies of BIR Form No. 1905</p> <p>Remarks:</p> <ul style="list-style-type: none"> ☑ The application may be filed online through ORUS or manually at the new RDO having jurisdiction over the place of residence where they will transfer ☑ The transfer shall be done immediately upon filing of the application with complete documentary requirements. ☑ If the nonbusiness taxpayer will subsequently apply for business registration, the application shall be filed directly at the RDO having jurisdiction over the business address where his/her registration records will be transferred.
Head Office and/or Branch	<p>Requirements:</p> <p>To Old RDO:</p> <ul style="list-style-type: none"> ☑ 3 original copies of BIR Form No. 1905 ☑ 3 original copies of Inventory List of Unused Invoices and Supplementary Invoices or letter request with Inventory List ☑ 3 original copies of Notarized Transfer Commitment Form, if applicable/if with open cases <p>To New RDO:</p> <ul style="list-style-type: none"> ☑ 2 original copies of BIR Form No. 1905 ☑ For Non-Individual Taxpayers: <ul style="list-style-type: none"> ○ Photocopy of Amended Articles of Incorporation/Partnership/COR of Amendments to Articles of Cooperation and By-Laws

	<ul style="list-style-type: none"> ✓ For non-individuals, single proprietors, except professionals: <ul style="list-style-type: none"> ○ Mayor's Business Permit; or ○ Photocopy of duly received Application for Mayor's Business Permit, if the same is still in process with the LGU ✓ Original copy of unused invoices and supplementary invoices, for re-stamping by old RDO, with approved letter request and inventory list ✓ Photocopy of the Transfer Commitment Form, if applicable, together with the BIR Form No. 1905 duly received by old RDO <p><u>Remarks:</u></p> <ul style="list-style-type: none"> ✓ The application shall be filed at the current RDO where the taxpayer is registered. ✓ All open cases/stop-filer cases shall be settled at the RDO by submitting a Transfer Commitment Form, except those subject to audit investigations. ✓ Those who are not subject to audit investigations shall be transferred to the new RDO within the prescribed period. ✓ For branches/ facilities, the transfer shall be done within 5 days while 10 days for head office.
--	--

RMC 96-2024, August 29, 2024

This provides procedures for the implantation of Section 206 of the Tax Code.

The issuance of a notice of warrant of constructive distraint over a taxpayer's properties may be done in certain instances which include, but is not limited to the following:

- ✓ Those who have substantial amount of assessment pending with the BIR

Note: An assessment is substantial if the amount thereof is equal to or higher than the net worth or equity of the taxpayer during the current taxable year.

- ✓ Those who are using aliases in bank accounts

Note: Aliases is any name other than the name for which he is legally and/or popularly known.

BIR ISSUANCE

☑ Those who keep and/or own bank deposits and other properties under the name of other persons not under any lawful fiduciary or trust capacity

☑ Those who have undeclared income known to the public or to the BIR and there is a great tendency to hide his or her properties

Note: Undeclared income is an amount exceeding by at least thirty percent (30%) of the gross sales, gross receipts or gross revenue declared per return.

☑ Those who are tagged as cannot be located

☑ Those under tax investigation who:

➤ have a record of leaving the Philippines at least twice a year (over a 12-month period);

Exception: Trips connected with business, profession, or employment

➤ other than banking institutions, have a record of transferring bank deposits and other personal property/ies to any foreign country;

➤ try to hide or conceal his or her personal properties to prevent discovery by tax authorities; or

➤ intend to perform any act tending to obstruct the proceedings for collecting the tax due or which may be due from him or her.

☑ Other analogous cases.

SEC ISSUANCE

SEC Memorandum Circular No. 13 Series of 2024, August 30, 2024

*This guidelines on Enhanced
Compliance Incentive Plan.*

Covered Violations:

- ☑ Non-filing of GIS for the latest and prior years
- ☑ Late filing of GIS for the latest and prior years
- ☑ Non-filing of Financial Statements, whether audited or certified, including fines for its attachments [e.g., Certificate of Existence of Program/Activity (COEP), Non- Stock and Non-Profit Organization (NSPO) Forms] for the latest and prior years
- ☑ Late filing of AFS, including fines for its attachments (e.g., COEP, NSPO Forms), for the latest and prior years

ECIP Rates:

A. Non-compliant Corporation, including delinquent corporations

Violation	ECIP Fee
1. Late and Non-Filing of GIS	Php 20,000
2. Late and Non-Filing of AFS	
3. Non-compliance with MC28	

B. Suspended and Revoked Corporation

Violation	ECIP Fee and Other Penalties
Petition Fee	Php 3,060; and
1. Late and Non-Filing of GIS	50% of the assessed fines
2. Late and Non-Filing of AFS	
3. Non-compliance with MC28	



TAX ON PRIZES AND AWARDS

By

Rodel C. Unciano

Indeed, prizes galore for our athletes who are bringing home accolades for the Philippines from the recently concluded Paris Olympics. With the long list of prizes awaiting our winning athletes, there is now a question as to whether or not these prizes and awards are subject to tax.

There are a few provisions of the Tax Code of 1997, as amended, in respect to the taxability of prizes and awards. But as a general rule, prizes and winnings are included as part of the gross income that should be subjected to income tax. That is by virtue of the express provision under Section 32 of the Tax Code. Also, under Section 24 of the Tax Code, prizes and other winnings are subject to a final tax at the rate of twenty percent (20%), except prizes amounting to ten thousand pesos (P10,000.00) or less which shall be subject to regular tax, and winnings amounting to ten thousand pesos (P10,000.00) or less from the Philippine Charity Sweepstakes and Lotto which shall be exempt from tax.

Under Section 32 of the Tax code, prizes and awards made primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievements are not subject to tax under the following conditions: 1) The recipient was selected without any action on his part to enter the contest or proceeding; and 2) The recipient is not required to render substantial future services as a condition to receiving the prize or award.

TAX ON PRIZES AND AWARDS

By

Rodel C. Unciano

INSIGHTS

On the other hand, all prizes and awards in sports competitions are likewise not subject to tax provided that these are granted to athletes in local and international sports competitions and tournaments whether held in the Philippines or abroad and sanctioned by their national sports associations.

So, to the question, are the prizes and awards given to our countrymen who once again gave honor to the country in the field of athletics free from tax?

Following the provisions of the Tax Code, it would seem that for so long as the prizes and awards are given to the athletes in recognition of their excellent participation in a sports competition that is sanctioned by their national sports associations, the prizes and awards in whatever kind and source shall not be subject to Philippine tax. The law does not distinguish as to whoever the giver is. The law says “all prizes and awards” which may be interpreted to include all prizes from anybody else, which therefore includes the numerous rewards from the private sector.

This is seemingly consistent with the mandate of Republic Act (“RA”) No. 7549 which exempts all prizes and awards granted to athletes in local and international sports tournaments from the payment of income and other forms of taxes. Also, pursuant to RA 7549, such prizes and awards given to said athletes shall be deductible in full from the gross income of the donor, and the donors of said prizes and awards shall be exempt from the payment of donor's tax.

Note though that there is no clear precedent on this as of the moment. There could be other views contrary to this.

Note also, that as provided under our laws, to qualify for tax exemption, the prizes and awards must be given to the athlete. But some groups may be generous enough to give rewards, not to the athlete, but to the coach or to someone else who may have direct or indirect participation in the tournament or perhaps given to someone else who may have directly or indirectly contributed to the athlete's fruitful participation in the competition. Would the reward be taxable?

Well, the Tax Code provides that the value of property acquired by gift, bequest, devise, or descent shall not be subject to income tax. So, the awards, rewards or incentives given to the coach or to someone else may qualify for income tax exemption on the premise that these are in the nature of gifts which are given to them out of the liberality of the giver.

But of course, the liberality of the giver is not free from tax. Under Section 98 of the Tax Code, donor's tax shall be levied, assessed, collected, and paid upon the transfer by any person, resident or nonresident, of property by gift. Thus, every person, whether natural or juridical, who transfers or causes to transfer property by gift, whether the gift is direct or indirect and whether the property is real or personal, shall be subject to donor's tax.

TAX ON PRIZES AND AWARDS

By

Rodel C. Unciano

For inquiries on the article, you may call or email

ATTY. RODEL C. UNCIANO

Partner

T: +63 2 8403-2001 local 380

rodel.unciano@bdblaw.com.ph

THE BDB TEAM

OUR EXPERTS



BENEDICTA DU-BALADAD

Founding Partner, Chair & CEO
T: +63 2 8403 2001 loc. 300
dick.du-baladad@bdblaw.com.ph



FULVIO D. DAWILAN

Managing Partner
T: +63 2 8403 2001 loc. 310
fulvio.dawilan@bdblaw.com.ph



IRWIN C. NIDEA, JR.

Senior Partner
T: +63 2 8403 2001 loc. 330
irwin.c.nideajr@bdblaw.com.ph



RODEL C. UNCIANO

Partner
T: +63 2 8403 2001 loc. 380
rodel.unciano@bdblaw.com.ph



MABEL L. BUTED

Junior Partner
T: +63 2 8403 2001 loc. 160
mabel.buted@bdblaw.com.ph



JOMEL N. MANAIG

Junior Partner
T: +63 2 8403 2001 loc. 140
jomel.manaig@bdblaw.com.ph

DISCLAIMER: The contents of this Insights are summaries of selected issuances from various government agencies, Court decisions and articles written by our experts. They are intended for guidance only and as such should not be regarded as a substitute for professional advice.

Glossary of Common Terms, Abbreviations, and Acronyms

ABR	-	Annual Benefits Report
ATIR	-	Annual Tax Incentives Report
BIR	-	Bureau of Internal Revenue
CIR	-	Commissioner of Internal Revenue
CTA	-	Court of Tax Appeals
EOPT	-	Ease of Paying Taxes
IPAs	-	Investment Promotion Agencies
IRR	-	Implementing Rules and Regulations
FAN	-	Final Assessment Notice
FNBS	-	Final Notice Before Seizure
FLD	-	Formal Letter of Demand
GS	-	Group Supervisor
LOA	-	Letter of Authority
NIC	-	Notice of Informal Conference
ORUS	-	Online Registration and Update System
PCL	-	Preliminary Collection Letter
RA	-	Republic Act
RBEs	-	Registered Business Enterprises
RCC	-	Revised Corporation Code
RMC	-	Revenue Memorandum Circular
RMO	-	Revenue Memorandum Order
RO	-	Revenue Officer
RR	-	Revenue Regulations
SEC	-	Securities and Exchange Commission
SRC	-	Securities Regulation Code
TCC	-	Tax Clearance Certificate
VAT	-	Value Added Tax