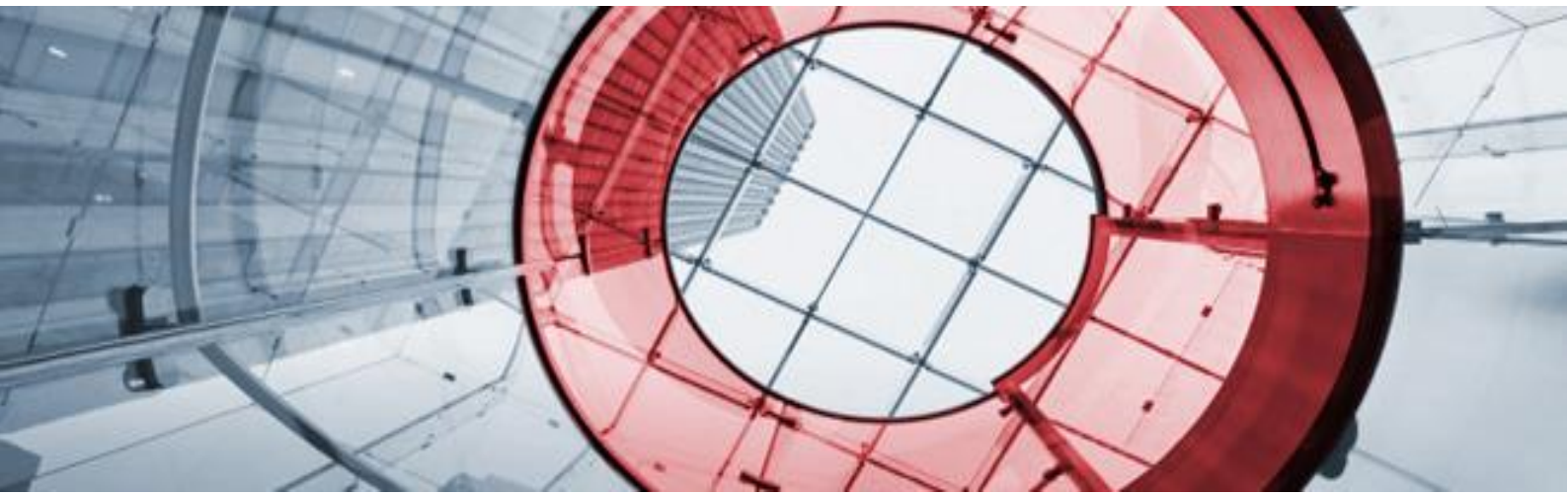
BDB Law wts
DU-BALADAD AND ASSOCIATES

INSIGHTS

MAY 2018

A monthly digest of significant tax-related court decisions and regulatory issuances (includes BIR, SEC, BSP and various government agencies)

Third Issue, Series of 2018



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CEO MESSAGE

Dear Clients and Friends,

Within our radar are 2 important bills being pushed in Congress – the Package 2 of the TRAIN and the Tax Amnesty bill – which I would like to give an update.

Package 2 of the TRAIN is the reform on corporate income taxes. As explained by DOF, this package is supposed to be revenue neutral. The proposed reduction in corporate tax should be recouped by a reduction in tax incentives.

At present, there are already 2 bills filed on Package 2 containing almost similar features reducing the corporate income tax but at the same time, rationalizing or streamlining (DOF calls it modernizing) the tax incentives. One bill (Suansing Bill) proposes to reduce the corporate income tax from the current 30% to 25% but conditioned on the amount of revenue generated from the reduction in tax incentives. The other bill (Cua Bill) proposes a better feature by reducing corporate income tax to 20% in a span of 10 years, with no condition. As of now, everything is volatile and we cannot yet see a definite landscape for package 2.

The tax amnesty, on the other hand, has been recently revived in Congress after a temporary lull. Deliberated at a public hearing in Senate this week is the DOF version of the tax amnesty. The DOF version consolidates into one bill all the 3 amnesties: an estate tax amnesty of 6% with no penalties, a general amnesty with an amnesty rate of 4-5% based on gross assets, and an amnesty for delinquent taxes in exchange for paying 50%-80% of the basic tax assessed. The timeline for having this approved is this year.

We will continue to update you on these important bills.

Benedicta Du-Baladad
Managing Partner & CEO

HIGHLIGHTS for MAY 2018

Court Decisions

- Sales of services of an ecozone enterprise within the customs territory are not subject to VAT so long as such sales do not exceed the 30% threshold. *(Clark Water v. Commissioner of Internal Revenue, CTA Case No. 9286, May 3, 2018)*

- Applying the principle of solutio indebiti, inaction of the Commissioner of Customs is within the CTA's exclusive appellate jurisdiction. (*AGC Flat v. BOC, CTA Case No. 8752, May 9, 2018)*

- In a refund of excise taxes paid in advance for locally manufactured products that are subsequently exported, the 2-year period to file the administrative and judicial claims as provided in Sections 204 and 229 of the Tax Code applies. *(Philip Morris v. CIR CTA Case No. 8791, May 9, 2018)*

- Services rendered by a local supplier to a RE developer as part of the whole process of exploration and development of renewable energy sources are VAT zero-rated. *(Vestas Services v. CIR, CTA Case No. 9382, May 9, 2018)*

- Machineries and equipment actually, directly, and exclusively used in the generation and transmission of electric power are exempt from real property tax under the Local Government Code only if the actual, direct and exclusive user of the said properties is a government-owned or controlled corporation and not a private corporation. (*NPC v. Luzon Hydro, CTA EB No. 1020, May 22, 2018)*

BIR Issuances

- **RR 16-2018, May 25, 2018 –** Taxpayers are now allowed to use either a thermal or non-thermal paper all Cash Register Machines (CRMs)/Point-of-Sales (POS) machines and other invoice/receipt generating machine/software for as long as all the required information are kept by the taxpayer within the reglementary period.

- **RMC 30-2018, May 3, 2018 –** Amendments to the documentary requirements for new business registrants to comply with the Data Privacy Act of 2012 and with the Ease of Doing Business.

- **RMC 33-2018, May 17, 2018 –** Circularizes the Renegotiated Philippines-Thailand Double Tax Convention last 5 March 2018, and shall take effect beginning January 1, 2019.

- **RMC 34-2018, May 17, 2018 -** Circularizes the Philippines-Sri Lanka Double Taxation Agreement entered into last 14 March 2018 and shall take into effect beginning January 1, 2019.

- **RMC 36-2018, May 21, 2018 –** Extends the validity period of Certificates of Accreditation issued to developers/dealers/suppliers/vendors/pseudo-suppliers of Cash Register Machines (CRM), Point-of-Sale (POS) Machines and/or other sales machine/receipting software until July 31, 2020. Those issued on August 1, 2015 onwards shall follow the 5-year validity period based on the actual date of issuance.

- **RMC 41-2018, May 24, 2018 –** Prescribes the rules on issuance of TIN of corporations that have reached their corporate life as originally stated in their Articles of Incorporation.

- **RMO 23-2018, May 21, 2018 –** Prescribes the policies, guidelines and procedures in availing the eight percent (8%) income tax rate option of individuals earning from self-employment/business and/or practice of profession relative to the implementation of the TRAIN Act.

BSP Circulars

- **BSP Circular No. 1003, May 16, 2018 –** Guidelines on the Establishment and Operations of Bank and Non-Bank Credit Card Issuers to implement Republic Act (RA) No. 10870 or the Philippine Credit Card Industry Regulations Law.

Article Written

- **Tax Treatment of Liquidating Dividends, Business Mirror: Tax Law for Business, May 18, 2018.** The article discusses the proper tax treatment of liquidating dividends on the part of the liquidating corporation and stockholders.

COURT ISSUANCES

I
Significant Court of Tax Appeals Decisions

Sales of services of an ecozone enterprise within the customs territory are not subject to VAT so long as such sales do not exceed the 30% threshold.

The taxpayer argues that, as a registered enterprise in the Clark Special Economic Zone, it enjoys the preferential tax rate of 5% in lieu of all local and national taxes, unless it breaches the 30% threshold on its sales within the customs territory. Since its revenues from enterprises located outside the ecozone constitute only 7.12% of its total revenue, the taxpayer contends that its sales within the customs territory should not be subject to VAT.

The BIR, on the other hand, insists that the sales rendered to a customer from the customs territory is subject to VAT. The CTA ruled in favour of the taxpayer.

The CTA noted that the taxpayer was being assessed for failure to pay alleged taxes on sales of services made outside the ecozone. The assessment was anchored on Section 3 (Q9/A9) of RMC No. 50-2007 which provides that the sale of service shall be exempt from VAT if the service is performed or rendered within the free port zone. The CTA further noted that no distinction was made between a service done within the free port zone and outside the free port zone. The RMC merely stated that tax implication of the sale of service within the free port zone. Thus, it is proper to relate the same to Section 3 (Q7/A7) of same RMC, which states that should a free port zone-registered enterprise's income from sources within the customs territory exceed 30% of its total income, then it shall be subject to the income tax laws of the customs territory. Since the taxpayer's sales within the customs territory do not exceed the aforesaid 30% threshold, then it follows that it is entitled to enjoy the 5% special tax regime in lieu of national and local taxes, including VAT. *(Clark Water v. Commissioner of Internal Revenue, CTA Case No. 9286, May 3, 2018)*

Note: This is a novel decision as it clarifies that; it is only when the 30% income threshold is breached that VAT can be imposed on a PEZA enterprise.

Applying the principle of solutio indebiti, inaction of the Commissioner of Customs is within the CTA's exclusive appellate jurisdiction.

The Commissioner of Customs (COC) argues that the CTA has no jurisdiction over the inaction of the Commissioner of Customs. The Court held that it could take jurisdiction. The failure or inaction of the COC should not be allowed to prejudice the right of a taxpayer. Technicalities and legalisms should not be misused by the government to keep money not belonging to it and thereby enrich itself at the expense of taxpayers. It would be anomalous, if not highly iniquitous, if the taxpayer will be totally at the mercy of the COC. Such possible inaction can deprive lawful tax refund claimants of a positive and expedient relief from the courts of justice. The provisions of the law on *solutio indebiti* are applicable. *(AGC Flat v. BOC CTA Case No. 8752, May 9, 2018)*

Note: This theory may be applied in the current rules on VAT refund. The TRAIN law states that the BIR is given 90 days to process a VAT refund. But if there is no decision on the part of the BIR within those 90 days, the taxpayer cannot elevate its claim to the CTA. Unlike in the previous law and jurisprudence, the BIR's inaction after 90 days is not tantamount to denial of a claim for refund, which can be the basis of elevating the said claim to the CTA.

Using this case as basis, taxpayers may use the argument of *solutio indebiti* in elevating a claim for refund, if the BIR does not act after 90 days.

In a refund of excise taxes paid in advance for locally manufactured products which are subsequently exported, the 2-year period to file the administrative and judicial claims as provided in Sections 204 and 229 of the Tax Code applies.

In compliance with Revenue Regulations No. 03-08, the taxpayer advanced the excise tax on tobacco and cigarette products it exported. The taxpayer filed with the BIR a claim for refund on said advanced excise taxes on its exported tobacco. Claiming inaction on the administrative claim and the six-year prescriptive period under Article 1145(2) of the Civil Code is about to expire, the taxpayer elevated the same to the CTA. Before the CTA, the taxpayer claims that the amounts it advanced or deposited under Revenue Regulations No. 03-08 should be returned to it pursuant to the principle of solutio indebiti. The taxpayer contends that the two-year prescriptive period under Section 204(C) and 229 of the Tax Code is not applicable. The CTA disagreed.

In claiming a refund of excise taxes paid in advance for locally manufactured products which were subsequently exported, the two (2)-year period to file the administrative and judicial claims as provided in Sections 204 and 229 of the NIRC of 1997, as amended applies - - the excise taxes paid in advance having become illegally paid or erroneously collected upon exportation of the locally manufactured products. The two-year prescriptive period found in Sections 204 and 229 of the Tax Code, which is a special law, should prevail over the prescriptive period under the Civil Code. Further, there is no *solutio indebiti*, in this case, as the payment pursuant to RR No. 03-08 was not made through mistake. Thus, the taxpayer failed to timely file its administrative and judicial claims for refund. *(Philip Morris v. CIR CTA Case No. 8791, May 9, 2018).*

Services rendered by a local supplier to a RE developer as part of the whole process of exploration and development of renewable energy sources are VAT zero-rated.

The taxpayer contends that its sales to registered RE developers are subject to zero percent (0%) VAT under the Tax Code and the Renewable Energy Act of 2008. The CTA agreed. Under the Renewable Energy Act, the whole process of exploration and development of renewable energy sources up to its conversion into power, including the services performed by contractors or subcontractors is a zero-rated transaction. Moreover, the law is categorical in stating that RE Developers are entitled to zero-rated VAT on their purchases of local supply of goods, properties and services needed for the development, construction and installation of its plant facilities. The taxpayer's rendition of services for the engineering, procurement and construction of the wind power plant of the registered RE developer may be treated as part of the whole process of exploration and development of renewable energy sources. As a local supplies of services needed for the development, construction and installation of the RE facilities, the services qualify as zero-rated. *(Vestas Services v. CIR CTA Case No. 9382 May 9, 2018).*

Note: Since development of a renewable energy plant takes years to complete, when should be the reckoning date when the taxpayer decides to refund its input VAT related to zero rated sales? Is it within two (2) years when the input VAT was incurred or it must be within two (2) years when the first zero-rated sales were made?

An original special civil action for certiorari directed against an Order of the Central Board of Assessment Appeals is within the Court of Tax Appeal's exclusive appellate jurisdiction.

The taxpayers argue that the CTA does not have jurisdiction over an original special civil action for certiorari directed against a mere Order of the CBAA and the CTA's power to issue writs of certiorari is limited only to cases clearly falling within the Court's exclusive appellate jurisdiction. The Court disagreed. In *City of Manila v. Hon. Grecia-Cuerdo, G.R. No. 175723, February 4, 2014*, notwithstanding that there is no categorical statement under the CTA's original charter, *i.e.,* RA No. 1125, and the amendatory law thereto, *i.e.,* RA No. 9282, the CTA is endowed with jurisdiction to entertain petitions for *certiorari* questioning interlocutory orders issued by regional trial courts in local tax cases. While the *City of Manila* case referred only to, and merely tackled, the jurisdiction of the CTA over a special civil action for *certiorari* assailing an interlocutory order issued by the RTC in a local tax case, the CTA ruled that it can also be reasonably concluded that based on the premise of the said *The City of Manila* case, the CTA is likewise endowed with jurisdiction to entertain the instant case, which is a special civil

action for *certiorari* assailing an interlocutory order issued by public respondent CBAA. Further, it is clear that the CTA *En Banc* has appellate jurisdiction to review decisions of the CBAA pursuant to Section 7(a)(5), in relation to Section 11, both of RA No. 1125, as amended by RA No. 9282. (*The Local Board of Assessment Appeals of Bulacan v. Central Board of Assessment Appeals, Manila Water Co. and Maynila Water Services, CTA EB No. 1505 (CBAA Case Nos. L-82 & L-83, May 10, 2018).*

In case of the CIR's inaction, the CTA may give credence to all evidence presented even those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.

The CIR contends that the CTA has no jurisdiction to entertain the Petition for Review on the ground that no valid administrative claim for refund was instituted by the taxpayer as it failed to submit complete supporting documents particularly those required under RMO No. 53-98. Thus, the judicial claim for refund was prematurely filed. The CTA disagreed with the CIR's contention. The CTA held that the documents submitted, or the lack thereof, at the administrative level regarding a claim for refund of unutilized input VAT, is irrelevant when the claim has already reached the Court, especially when there is inaction on the part of the CIR at the administrative level. Further, it has long been settled that compliance with RMO No. 53-98, especially at the judicial level, is not required for the claim of refund to prosper. (*Commissioner of Internal Revenue v. Coral Bay, CTA EB No. 1418, May 17, 2018*)

Note: The BIR has issued RMC No. 54-2014 on June 14, 2014, which superseded by RMC No. 17-2018 on February 27, 2018. The said RMCs list down all documents that must be submitted in a claim for VAT refund. It is interesting to know if the court will still apply its ruling in this case, when it decides on claims for refund that were filed during the effectivity of RMC No. 54-2014 and after the effectivity of RMC No. 17-2018.

An appeal to the CTA En Banc of an Amended Decision of the CTA in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

The CTA in Division partially granted the taxpayer's petition. The taxpayer timely filed a Motion for Reconsideration. The CTA in Division partially granted the taxpayer's Motion for Reconsideration and modified its earlier Decision by issuing an Amended Decision. The taxpayer filed an appeal with the CTA En Banc. The Court held that before an appeal may be filed with the Court *En Bane* by an aggrieved party, the appeal must be preceded by the filing of a timely motion for reconsideration or new trial with the Division that rendered the questioned amended decision. An amended decision which modifies or reverse a decision, is a new and different decision, thus, is a proper subject of a motion for reconsideration. Failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of a petition before the CTA En Banc. Here, the taxpayer did not file a motion for reconsideration of the Amended Decision and thus the case should be dismissed. (*Greenhills Properties, Inc. v. Commissioner of Internal Revenue, CTA EB No. 1604 (CTA Case No. 8295), May 17, 2018)*

Machineries and equipment actually, directly, and exclusively used in the generation and transmission of electric power are exempt from real property tax under the Local Government Code only if the actual, direct and exclusive user of the said properties is a government-owned or controlled corporation and not a private corporation.

The National Power Corporation (NPC) insists that it is entitled to the real property exemption on the machineries comprising one of its power plants, built under a Build-Operate-Transfer (BOT) scheme with Luzon Hydro Corporation (LHC). Under Section 234 of the Local Government Code, machineries and equipment actually, directly, and exclusively used by government-owned or controlled corporations engaged in the generation and transmission of electric power are exempt from real property tax. The CTA En Banc ruled that the NPC was not entitled to the said exemption, as there must be actual, direct, and exclusive use of the machineries. While it is undisputed that the subject properties, machineries and equipment are actually, directly, and exclusively used in the generation and transmission of electric power, the actual, direct, and exclusive user of the subject properties

in the generation and transmission of electric power is LHC, which is not GOCC. By the express terms of the BOT Agreement, LHC has complete ownership - both legal and beneficial - of the project, including the machineries and equipment used, subject only to the transfer of these properties to NPC after the lapse of the period agreed upon. (*NPC v. Luzon Hydro, CTA EB No. 1020, May 22, 2018)*

BIR Issuances

RR 16-2018, May 25, 2018

This revenue regulation amends Revenue Regulations No. 10-2015, as amended; on the use of non-thermal paper for all Cash Register Machines (CRMs) /Point-of-Sales (POS), machines and other invoice/receipt generating machine/software.

In particular, the amendment now allows all taxpayers using CRMs/POS machines and other invoice/receipt generating machine/software shall have the option to use the type of paper depending on their business requirements, subject to the retention and preservation of accounting records for a period within which the Commissioner is authorized to make an assessment and collection of taxes. The revenue regulation likewise states that all tape receipts issued and the data printed on the tape receipts shall show the information required under Section 5 of Revenue Regulations No. 10-2015.

RMC 30-2018, May 3, 2018

This revenue memorandum circular amends the documentary requirements for new business registrants as provided in Revenue Memorandum Circular No. 93-2016, as amended, in compliance with the Data Privacy Act of 2012 and with the Ease of Doing Business. The changes are as follows:

- The Books of Accounts have been removed from the list of documents. This shall be registered by the taxpayer within thirty (30) calendar days from the date of business registration
- In case of an authorized representative who will transact with the BIR on behalf of the taxpayer, the following shall be required:

Individual	Non-Individual
➢ Special Power of Attorney; and ➢ Identification Card (ID) of the authorized person	➢ Board Resolution indicating the name of the authorized representative ➢ Secretary's Certificate; and ➢ ID of the authorized person

RMC 32-2018, May 9, 2018

This revenue memorandum circular prescribes and circularizes the Revised BIR Form No. 1701Q (Quarterly Income Tax Return) January 2018 (ENCS)

RMC 33-2018, May 17, 2018

This revenue memorandum circular notifies taxpayers that the Renegotiated Philippines-Thailand Double Tax Convention has entered into force last 5 March 2018. The Renegotiated Convention shall have effect on income that arises in the Philippines beginning January 1, 2019.

RMC 34-2018, May 17, 2018

This revenue memorandum circular notifies taxpayers that the Philippines-Sri Lanka Double Taxation Agreement has entered into force last 14 March 2018. The Renegotiated Convention shall have effect on income that arises in the Philippines beginning January 1, 2019.

RMC 36-2018, May 21, 2018

This revenue memorandum circular extends the validity period of Certificates of Accreditation issued to developers/dealers/suppliers/vendors/pseudo-suppliers of Cash Register Machines (CRM), Point-of-Sale (POS) Machines and/or other sales machine/receipting software.

Under Revenue Memorandum Circular No. 30-2015 and Revenue Memorandum Circular No. 68-2015, all new applications for accreditation of machine/software of supplies/distributors/dealers/vendors shall be processed at the BIR National Office only and shall have a validity period of five (5) years from date of issuance of the Certificate of Accreditation. This was further clarified in Revenue Memorandum Circular No. 55-2016, which states the following validity dates:

Date of Issuance on the Certificate of Accreditation	Valid until
Prior to July 31, 2013	July 31, 2018
August 1, 2013 to July 31, 2014	July 31, 2019
August 1, 2014 to July 31, 2015	July 31, 2020
August 1, 2015 onwards	Five year validity shall commence

In this revenue memorandum circular, all Certificates of Accreditation issued on or before July 31, 2015 shall be valid until July 31, 2020. On the other hand, all Certificates of Accreditation issued on August 1, 2015 onwards shall follow the 5-year validity period based on the actual date of issuance.

RMC 38-2018, May 23, 2018

This revenue memorandum circular reiterates the guidelines in registration, updates and other tax compliance requirements of candidates, political parties/party list groups and campaign contributors.

RMC 39-2018, May 24, 2018

This revenue memorandum circular reiterates and clarifies the taxability of goods or properties originally intended for sale or use in business, including capital goods, disposed of or existing as of the date of change in or cessation of status of a person as VAT-registered taxpayer.

The circular notes that taxpayers who changed their status from VAT to non-VAT due to the increase in the VAT threshold of P3, 000,000 as provided under Section 109(BB) of the TRAIN Law submitted only the "Application for Registration Information Update" (BIR Form 1905) without filing the quarterly VAT returns and paying the tax due on the inventories existing as of the date of change of status. The circular reiterates that, pursuant to Section 106(C) of the Tax Code, as implemented by Section 4.106-8 of Revenue Regulations No. 16-2005,

taxpayers are required to file the quarterly VAT return covering the period when the change of status transpired and pay the corresponding VAT due on goods or properties originally intended for sale or use in business, including capital goods, disposed of or existing as of the date of change of status from VAT to non-VAT.

RMC 41-2018, May 24, 2018

This revenue memorandum circular clarifies that the rules on issuance of TIN of corporations that have reached their corporate life as originally stated in their Articles of Incorporation.

Scenario	Rule
Corporate life has been granted extension by SEC prior to expiration of its corporate life	No new TIN shall be issued but the taxpayer should update its registration record
Corporation or partnership that has been issued a second or new SEC Certificate of Registration to correct typographical errors	No new TIN shall be issued but the taxpayer should update its registration record
Corporation or partnership whose registration with SEC has been revoked or its corporate life has expired	If the SEC allows the re-registration of the expired corporation using the same corporate name, such corporation is a new corporation bearing a new SEC Registration Number and new pre-generated TIN. The new TIN shall be used in all of its future transactions. Note that the TIN of the corporation or partnership which ceased to exist due to expiration of its corporation life shall be used in the process of liquidation/winding-up.
Merger of corporations	The surviving corporation shall retain its TIN while the TIN of the merged corporation shall be cancelled
Consolidation of corporations	A new TIN shall be issued to the new corporations and the TINs of the consolidated corporations shall be cancelled

RMO 22-2018, May 17, 2018

This revenue memorandum order revises Revenue Memorandum Order No. 9-2006 (Guidelines and Procedures in the Conduct of Tax Compliance Verification Drive) by removing the requirement for the Tax Mapping Team to issue a "Reminder LetteR" to all business establishments being tax mapped.

RMO 23-2018, May 21, 2018

This revenue memorandum order prescribes the policies, guidelines and procedures in availing the eight percent (8%) income tax rate option of individuals earning from self-employment/business and/or practice of profession relative to the implementation of the TRAIN Act. The following should be noted:

1. A Barangay Micro Business Enterprise cannot avail of both BMBE status (exempted from income tax, but liable to other internal revenue tax) and the 8% income tax rate option at the same time.
2. The availment of the 8% income tax rate option is required to be signified and selected every taxable year, if the taxpayer wishes to be covered by such income tax rate
3. The income tax rate option, once elected, shall be irrevocable, and no amendment of option shall be made for the taxable year it has been made

4. The provision which allows an option of 8% income tax rate on gross sales/receipts and other non-operating income in excess of P250, 000 is available only to self-employed individuals earning income purely from self-employment and/or practice of profession. The same is not applicable to mixed income earners.
5. For mixed income earners, the excess of the P250, 000 over the actual taxable compensation income is not deductible against the taxable income from business/practice of profession under the 8% income tax rate option.

BSP Issuances

BSP Circular No. 1003, May 16, 2018

The Monetary Board approved Circular No. 1003 or the Guidelines on the Establishment and Operations of Bank and Non-Bank Credit Card Issuers to implement Republic Act (RA) No. 10870 or the Philippine Credit Card Industry Regulations Law.

In this circular, the following should be noted:

Minimum requirements for banks operating as credit card issuers.

A duly incorporated bank of good standing which intends to engage in credit card business, may operate as a credit card issuer provided it submits the following requirements:

1. Notice to the appropriate department of the SEC that the Bank will engage in credit card operations; and
2. Certification under oath executed by the president or officer of equivalent rank of the Bank that it has complied with the relevant risk management standards, including among others, Credit and Information Technology Risk Management.

Commencement of operations as credit card issuer.

A bank shall commence its credit card operations within six (6) months from its submission of the documents. The president or officer of equivalent rank of the bank shall submit a written notice of commencement of business operations within ten (10) banking days therefrom.

Minimum requirements for the governance and risk management system for credit card operations of Banks.

To effectively deliver services, banks must have adequate financial strength, fit and proper board and management and must demonstrate technical and risk management capability to operate a credit card business. Banks shall establish a risk governance framework designed to ensure that risks arising from credit card operations are identified, aggregated, monitored and mitigated.

Minimum requirements for the issuance of credit cards.

Banks shall not issue pre-approved credit cards notwithstanding any contrary stipulations in the credit card contract or agreement with the cardholder.

Before issuing credit cards, banks shall conduct know-your-client (KYC) and customer identification procedures, exercise proper diligence in ascertaining that applicants possess good credit standing and are financially capable of fulfilling their credit commitments.

All credit card applications shall undergo a strict credit underwriting process, and any information stated thereon shall be verified and validated by authorized personnel of banks.

Information to be disclosed.

Banks shall disclose to each of their existing and potential credit cardholders the following information:

1. The finance charges for unpaid amounts;
2. Other charges or fees;
3. The percentage that the interest/finance charge bears to the total amount to be financed;
4. For installment loans: the number of installments, amount and payment schedules;
5. Penalty for late payment or similar delinquency-related charges;
6. When one (1) or more periodic rates is used to compute interest: each rate, the balances to which it is applicable, and the corresponding simple annual rate;
7. In cases when transactions are made in foreign currencies, the manner of conversion from transaction currency to billing currency;
8. A reminder to the cardholder in the billing statement that payment of only of any amount less than the total amount due for the billing cycle would mean the imposition of interest and/or other charges.
9. A detailed explanation of the manner by which all interest, charges and fees are computed;
10. A table of all applicable fees, penalties, interest rates, conversion reference rates for third currency transactions, and the reason for their imposition;
11. Any other information that may be required by the Bangko Sentral.

Payment due date.

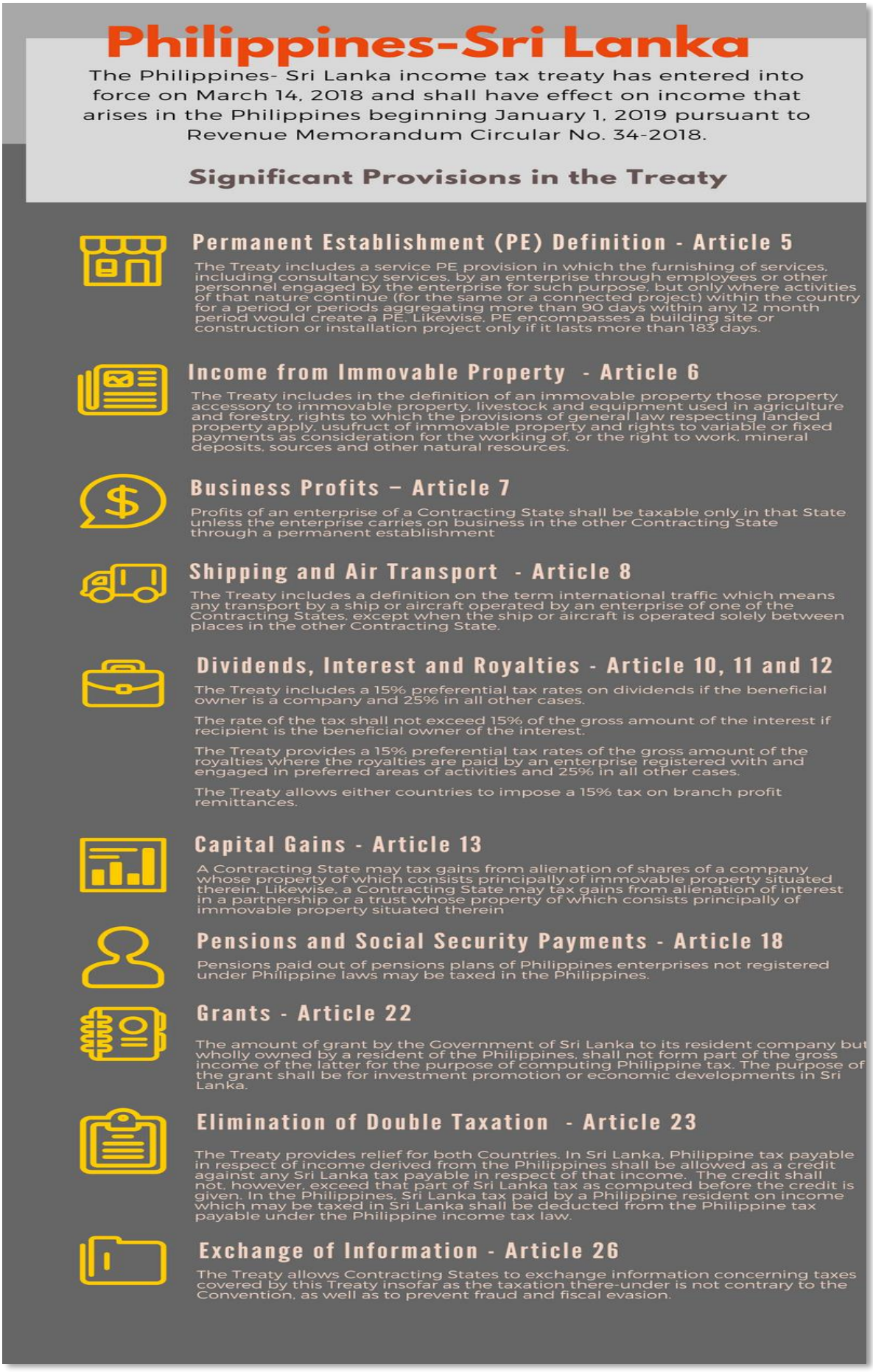
Payment due date must be made to the bank, shall be specified in the statement of account or billing statement.

Late payment fees/penalty for late payment.

No late payment fees or penalty for late payment shall be collected from cardholders unless the collection thereof is fully disclosed in the contract/agreement between the bank and the cardholder.

BSP Circular No. 1004, May 24, 2018

The BSP, through the Monetary Board, approved Circular No. 1004 or the 100-basis-point reduction in the reserve requirement ratios of selected reservable liabilities of universal/commercial banks (UBs/KBs) and non-bank financial institutions with quasi-banking functions (NBQBs).



Philippines-Thailand

The Renegotiated Philippines- Thailand income tax treaty has entered into force on March 5, 2018 and shall have effect on income that arises in the Philippines beginning January 1, 2019 pursuant to Revenue Memorandum Circular No. 33-2018.

PREVIOUS	RENEGOTIATED
TAXES COVERED	
All Income taxes under Title II of the NIRC and all other taxes on income imposed by the Philippines. (Art.2)	Expanded to include stock transaction tax. (Art.2)
PERMANENT ESTABLISHMENT (PE)	
As to furnishing of services PE, the duration is for a period or periods aggregating more than 183 days.	The duration has changed to more than six (6) months within any twelve (12) month period. (Art. 5)
SHIPPING AND AIR TRANSPORT	
The tax so charged shall not exceed the lesser of one and one-half percent and the lowest rate of Philippine tax. (Art. 8)	The lowest rate have been deleted. (Art. 8)
DIVIDENDS, INTEREST & ROYALTIES	
As to dividends, a preferential tax rates of either 15% or 20%.	The dividend's preferential tax rates have been reduced to either 10% and 15%.
As to interest, a preferential tax rates of either 10%, 15% and 25%.	The 25% interest's preferential tax rate is now excluded.
As to royalties, a maximum 15% rate on specified cases and 25% rate in all other cases.	There is now a uniform 15% rate applicable in royalties in all cases.
OTHER CHANGES	
There is no separate rules on personal services.	There is now rules on independent personal services (Art.14) and dependent personal services (Art. 15).
The period of prescription under mutual agreement procedure for application is two (2) years. (Art. 25)	The prescriptive period is now three (3) years to present a case. (Art. 15)
	The provisions on Insurance (Art. 9), Governmental Function (Art.19), Students and Trainees (Art.20), Elimination of Double Taxation (Art. 23), Exchange of Information (Art. 26) were also substantially revised.

Articles Written

Business Mirror: Tax Law for Business

Tax Treatment of Liquidating Dividends

By: Ronald S. Cubero

AS early as 1947, our Supreme Court had already characterized the gain or loss sustained by a stockholder of a corporation as a taxable income or a deductible loss. The same was reiterated in 2008 where the SC emphasized that any gain on the part of the stockholder is subject to income tax. On the part of a liquidating corporation, no tax shall be imposed, as the transfer in liquidation is not treated as a sale.

This pronouncement from the SC is actually anchored on the provision of our tax code. It is clearly provided in Section 73(A) of the code that the gain realized or loss sustained by a stockholder is a taxable income or a deductible loss. An expanded version of the same can also be found in Section 8 of Revenue Regulations 6-2008 whereby it is clarified that the capital gain or loss derived by stockholders in receiving liquidating dividends are subject to regular income-tax rates.

Viewed from the other perspective, however, the framing of the various statutory provisions in our tax code relating to taxation of sale of assets may provoke controversy as to the proper theory upon which to proceed in taxing stockholders on the receipt of liquidating distribution. For instance, in the recent Court of Tax Appeals (CTA) En Banc Case (1702), the Bureau of Internal Revenue (BIR) argued that the capital gains tax is a final tax on the presumed gain from the disposition of a property in exchange for shares of stock pursuant to Section 27 (D)(5) of our tax code. In invoking this provision, one can assume that the BIR is looking from the viewpoint of the stockholder whereby it has all the characteristic of an outright sale.

At the CTA division level, however, the Court clarified that mere distribution of liquidating dividend on account of the dissolution of a corporation is not to be treated as sale for purposes of the imposition of capital gains tax. One of the reasons is that the conveyance of real property as a result of a valid dissolution is without any consideration. In sum, the CTA decision followed the justification of the 2008 SC decision.

In view of the various justifications to exempt the liquidating dividends from tax on the part of the liquidating corporation, the CTA En Banc made a clear stand that the basis for liquidating dividends as not subject to tax is not because of the absence of income from or the absence of sale, disposition or conveyance of real property.

The main basis is that such transaction is subject to ordinary income tax on the part of the individual stockholders, or corporate-income tax for corporate stockholders. As the Court says, "the law is clear. There is, therefore, no room for interpretation."

Moving forward, while there may be various interpretations of the law if viewed from an interdisciplinary perspective, for taxation purposes, the term-liquidating dividend may only be viewed as not subject to tax on the point of view of the distributing corporation. But this is subject to tax on the part of the receiving stockholder.

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BDB Law's "Tax Law for Business" appears in the opinion section of Business Mirror every Thursday.

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