

## Significant Supreme Court Decision August 2018

**The irrevocability rule on excess creditable withholding tax also applies when a taxpayer ticks the option “Claim for Refund”.**

In the taxpayer’s Annual Income Tax Return (ITR) for taxable year 2005, it indicated that its excess creditable withholding tax (“CWT”) is “To be refunded”. Thereafter, it filed a claim for refund of its unutilized CWT. Its Quarterly ITR for year 2006 showed the excess credits. The CTA Division granted the taxpayer’s claim for refund but the decision was reversed by the CTA en banc for the reason that the taxpayer had actually carried-over said excess creditable withholding tax to the first, second and third quarters in its Quarterly ITRs for taxable year 2006. The CTA en banc ruled that said option to carryover became irrevocable.

On appeal, the Supreme Court reversed the CTA en banc’s decision holding that the irrevocability rule took effect when the option was exercised. The marking of the box “To be refunded” in the taxpayer’s 2005 annual ITR constituted its exercise of the option, and from then onwards, the taxpayer became precluded from carrying-over the excess creditable withholding tax. The fact that the prior year’s excess credits were reported in its 2006 quarterly ITRs did not reverse the option “to be refunded” exercised in its 2005 annual ITR. (*Rhombus Energy Inc. v. CIR, G.R. No. 206362, August 1, 2018*).

**Note:** This clarifies the issue of when the irrevocability rule shall apply. According to the SC, the irrevocability rule applies not only in the exercise of the option to carry over but also in the exercise of the option to claim for refund.