

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF INTERNAL REVENUE**

June 3, 2010

**Revenue Memorandum Circular No. 48-2010**

**Subject:** Publishing the Full Text of Department of Justice Decision dated 16 April 2010 on the case of Philippine National Oil Corporation (PNOC) vs. Bureau of Internal Revenue (BIR)

**To:** To All Internal Revenue Officials, Employees and Others Concerned

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For the information and guidance of all concerned, quoted hereunder is the full text of the decision on PNOC vs. BIR promulgated by the Department of Justice dated 16 April 2010; to wit:

Republika ng Pilipinas  
KAGAWARAN NG KATARUNGAN  
Department of Justice

**OFFICE OF THE SECRETARY**

**PHILIPPINE NATIONAL OIL  
CORPORATION,**

Petitioner,

- versus -

**BUREAU OF INTERNAL REVENUE**  
Respondent

X-----X

**RESOLUTION**

Before this Department is a Petition for Review dated 19 July 2004, assailing the Final Decision on Disputed Assessment dated 14 June 2004, by Respondent Commissioner of Internal Revenue (CIR) and received by Petitioner Philippine National Oil Corporation (PNOC) on 23 June 2004.

In sum, the following assessments of Respondent are assailed: (1) Disallowed interest expense in the amount of Php 80,829,950.00 pursuant to Section 34 (B) of the 1997 National Internal Revenue Code; (2) Undeclared income in the amount of Php 187,289,366.09 pursuant to Section 32 of the said Code; and Net Operating Carry Over Loss (NOLCO) in the amount of Php 187,289,366.09, pursuant of Section 34(D)(3) of the same Code.

In the Final Decision on Disputed Assessment, Petitioner, in event of disagreement over said Final Decision, was directed to file its appeal to the Court of Tax Appeal (CTA), within 30 days from receipt thereof, otherwise, and deficiency tax assessment shall become final, executor and demandable<sup>1</sup>. Instead of filing its appeal with the CTA, Petitioner opted to file the same with the Department<sup>2</sup>, citing the provisions of Presidential Decree (P.D.) No. 242, ratiocinating that since it is a government owned and controlled corporation and respondent is a national government agency, then this Department should arbitrate disputes, claims and controversies, arising from the interpretation and application of statutes, contracts or agreements between them.

We cannot agree.

Petitioner's reliance on P.D. 242 is misplaced. It is the CTA and not this Department which has jurisdiction over the subject matter of this Petition. The grant of authority to this Department by P. D. No. 242 to settle or adjudicate disputes between government agencies was couched in general terms. On the other hand, as embodied in Section 7 of Republic Act (R.A.) 1125, as amended by R.A. 9282,<sup>3</sup> the CTA shall have exclusive appellate jurisdiction to review, by appeal, **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes fees or other charges, penalties in relation thereto, or other matters arising under the National Internal or other laws administered by the Bureau of Internal Revenue.** Verily, between a general law and a special law, the latter shall prevail.

The Supreme Court in *PNOC vs. CA*<sup>4</sup>, in interpreting the provisions of R.A. No. 1125, as amended and P.D. No. 242, ruled that **R.A. No. 1125, specifically Section 7 on the jurisdiction of the CTA, is an exception to P.D. No. 242.** Thus, CTA shall exercise exclusive appellate jurisdiction over tax disputes and controversies enumerated therein. Pertinent provisions are quoted, as follows:

It has, thus, become an established rule of statutory construction that between a general law and a special law, the special law prevails – *Generalia specialibus non derogant.*

Sustained herein is the contention of private respondent Savellano that **P.D. No. 242 is a general law that deals with administrative settlement or adjudication of disputes, claims and controversies between or among government offices, agencies and instrumentalities, including government – owned or controlled corporations.** Its coverage is broad and sweeping, encompassing all disputes, claims and controversies. It has been incorporated as Chapter 14, Book IV of E.O. No. 292, otherwise known as the Revised Administrative Code of the Philippines. On the other hand, **Rep. Act No. 1125 is a special law dealing with a specific subject matter – the creation of the CTA, which shall exercise exclusive appellate jurisdiction over the tax disputes and controversies enumerated therein.**

Following the rule on statutory construction involving a general and a special law previously discussed, then **P.D. No. 242 should not affect Rep. Act No. 1125.** **Rep. Act No. 1125, specifically Section 7, thereof on the jurisdiction of the CTA, constitutes an exception to P.D. No. 242.** Disputes, claims and controversies, falling under **Section 7 of Rep. Act No. 1125**, even though solely among government offices, agencies, and instrumentalities, including government-owned and controlled corporations, remain in the exclusive appellate jurisdiction of the CTA. Such a construction resolves the alleged inconsistency or conflict between the two statutes, and the fact that P. D. No. 242 is the more recent law is no longer significant<sup>5</sup>. (Emphasis, Ours)

WHEREOF, for lack of jurisdiction, the Petition is Dismissed.

SO ORDERED.

Manila, 16 April 2010.

(original signed)

**ALBERTO C. AGRA**

Secretary

<sup>1</sup> Petition, Annex "D".

<sup>2</sup> Ibid., p.2.

<sup>3</sup> R.A. No. 9282 was approved on 30 March 2004 and took effect after fifteen (15) days following its publication in at least (2) newspapers of general circulation.

<sup>4</sup> G.R. No. 109976, 26 April 2005, 457 SCRA 32

<sup>5</sup> Ibid., pp. 80-81

All internal revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

(Original Signed)  
**JOEL L. TAN-TORRES**  
Commissioner of Internal Revenue