



Volume IX

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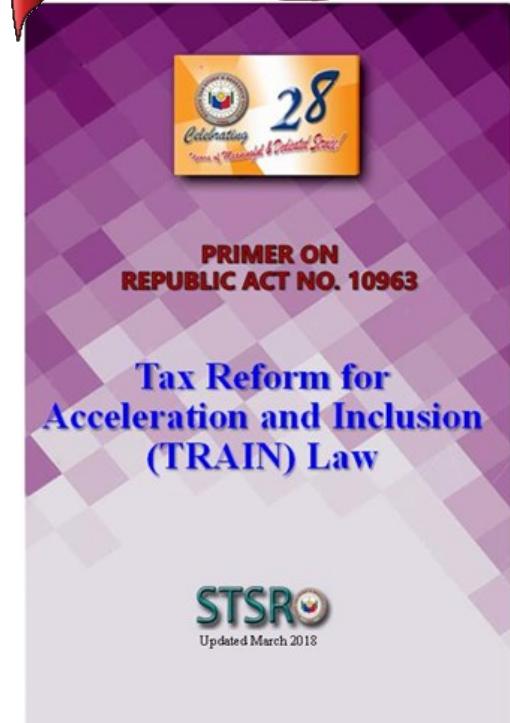
January - February 2018



TAX REFORM FOR ACCELERATION AND INCLUSION (TRAIN) LAW



LAUNCHING OF STSRO PRIMER ON RA 10963



A copy of said Primer was presented to Atty. Lutgardo B. Barbo, Senate Secretary by Atty. Rodelio T. Dascil, STSRO Director General, and the Officers and Staff of STSRO.

Copies of the same were distributed to offices in the Senate; e-copy can be accessed at the Senate Website (<http://www.senate.gov.ph>). The public can avail of a hard copy upon request.





Legislative Intent of RA 10963

Republic Act (RA) No. 10963 is based on Senate Bill (SB) No. 1592 which consolidates 31 Senate Bills and 3 House Bills and 3 Senate Resolutions.

It is a product of :

- 12 Public Hearings,
- 3 Consultative Meetings,
- 2 Technical Working Group (TWG) Meetings,
- 1 Pre-Bicam Conference Meeting, and
- 5 Bicameral Conference Meetings.

In sponsoring the bill on September 20, 2017, Senator Sonny Angara, Chair of the Committee on Ways and Means, said:

"Ang gusto po natin, Mr. President, ay dumami ang hanay ng mga Pilipino na nakakaasenso sa buhay. A leader once remarked that "A basic test of a functioning democracy is its ability to create a new wealth AND see to its fair distribution. when a democratic society does not meet the test of fairness... freedom is in jeopardy."

Senator Angara added:

"The Senate version of TRAIN (Tax Reform for Acceleration and Inclusion) started with building a theme – the theme of "social justice," which is its moral arc and its dominant purpose. Next, we put in the fiscal math. The result is a very comprehensive and ambitious tax reform which reduces the income taxes of 99 percent of individual taxpayers without impairing the government's capability to finance its ambitious "Build, Build, Build" programs and other worthy projects like rebuilding Marawi and upgrading our Defense and police forces among others, Mr. President. It simplifies the tax code to create the environment to expand the tax base and make payments easier."

Senator Angara emphasized that the TRAIN will address the following:

1. Bracket creep on income tax affecting individual income taxpayers.
2. Tax relief for public and private sector employees by raising the annual income tax exemption and the ceiling for the 13th month and other monetary benefits.
3. Issue on paying the right tax for the self-employed and professionals.
4. Building not only the country's physical infrastructure but also its human infrastructure.



"Better roads, highways, bridges, seaports, airports and railways will attract more investments and lead to better industries. And when the poor have access to education, healthcare, and social services, they gain better opportunities leading to better incomes for their families."

On December 19, 2017, President Rodrigo Duterte has signed into law RA 10963, otherwise known as the Tax Reform For Acceleration and Inclusion (TRAIN) Law, which amended 69 Sections of the National Internal Revenue Code (NIRC), as amended, created 8 new sections and repealed 3 sections.

In signing the TRAIN Law, President Duterte said:

"For two decades, we have been constrained by the outdated provisions of our tax laws under the National Internal Revenue Code, as amended. In particular, the high personal income tax rates have placed a significant burden to our laborers. Today, a major breakthrough in the legislative history has taken place, where we not only break this trend but provide for additional resources that we will use to fund the social and economic infrastructure that will benefit the poor."

Thus, the main objectives of the TRAIN are to maintain fiscal discipline and adhering to the true principles of taxation: which should be **fairness, simplicity and efficiency**.

Features of the TRAIN Law



PERSONAL INCOME TAX

Starting January 1, 2018, compensation income earners, self-employed and professional taxpayers (SEPs) whose annual taxable incomes are Php250,000 or less are exempt from the personal income tax (PIT).

The 13th month pay and other benefits amounting to Php90,000 are likewise tax-exempt.

The tax rates are as follows:

Tax schedule effective January 1, 2018 until December 31, 2022	
AMOUNT	RATES
Not Over Php250,000	0%
Over P250,000 but not over P400,000	20% of the Excess Over P250,000
Over P400,000 but not over P800,000	P30,000 + 25% of the Excess over P400,000
Over P800,000 but not over P2,000,000	P130,000 +30% of the Excess over P800,000
Over P2,000,000 but not over P8,000,000	P490,000 + 32% of the Excess over P2,000,000
Over P8,000,000	P2,410,000 +35% of the Excess over P8,000,000

Tax schedule effective January 1, 2023 and onwards:	
AMOUNT	RATES
Not Over Php250,000	0%
Over Php250,000 but not over Php400,000	15% of the Excess Over Php250,000
Over Php400,000 but not over Php800,000	Php22,500 + 20% of the Excess over Php400,000
Over Php800,000 but not over Php2,000,000	Php102,500 +25% of the Excess over Php800,000
Over Php2,000,000 but not over Php8,000,000	Php402,500 + 30% of the Excess over Php2,000,000
Over Php8,000,000	Php2,202,500 +35% of the Excess over Php8,000,000

SEPs who are also earning compensation income shall be subject to:

- On Compensation Income - graduated income tax (IT) schedule
- On Income from Business or Practice of Profession
 - ◊ If Gross Sales and/or Gross Receipts and other Non-Operating Income do not exceed Php3,000,000 - either 8% fixed tax or graduated IT schedule.
 - ◊ If Gross Sales and/or Gross Receipts and other Non-Operating Income exceed Php3,000,000 – graduated IT schedule.

EXAMPLES:

1. For a CALL CENTER AGENT who receives a monthly salary of P21,000 with mandatory annual deductions of P15,166.00 consisting of SSS, Philhealth, and Pag-ibig contributions, the income tax is computed as:

A. Annual Basic Salary	Php252,000.00
B. 13 th Month Pay and Other Benefits	21,000.00
C. Mandatory Contributions	15,166.00
Computation of Income Tax	
Annual Gross Income (A+B)	Php273,000.00
Deductions and Exemptions (B+C)	36,166.00
Net Taxable Income	Php236,834.00

Income Tax Rate:
Not over P250,000 = 0 %
TAX DUE **Php 0.00**

2. For a public school TEACHER (SG14, Step1) who receives a monthly salary of Php26,494.00 with annual mandatory deductions of Php34,185.00 consisting of GSIS, Philhealth, and Pag-ibig contributions, the income tax is computed as:

A. Annual Basic Salary	Php317,928.00
B. 13 th Month Pay and Other Benefits	26,494.00
C. Mandatory Contributions	34,185.00
Computation of Income Tax	
Annual Gross Income (A+B)	Php344,422.00
Deductions and Exemptions (B+C)	60,679.00
Net Taxable Income	Php283,743.00

Income Tax Rate:
Not over Php250,000 = 0 %
Over Php250,000 – P400,000 = 20% of Excess
over Php250,000
TAX DUE : Php250,000.00 = Php 0.00
 $33,743.00 \times 20\% = \underline{\text{Php 6,748.60}}$



TAX ON PASSIVE INCOME TAX

- Interest on FCDU deposits ⇒ 15%
- Sale of Unlisted shares ⇒ 15%
- Sale of Listed shares ⇒ 0.6 of 1%
- Pre-terminated long-term time deposits ⇒ 20%



FRINGE BENEFITS

A final tax of 35% is imposed on the grossed up monetary value of fringe benefits granted to the employee (except rank and file employees) by the employer, whether an individual or a corporation. Such tax is payable by the employer.



OPTIONAL STANDARD DEDUCTION (OSD)

A general professional partnership and the partners comprising such partnership may avail of the OSD only once, either by the general professional partnership or the partners.



FILING OF INCOME TAX RETURNS (ITR) AND PAYMENT OF TAXES

- An individual whose taxable income does not exceed Php250,000 is not required to file an income tax return.
- The ITR shall be composed of a maximum of four (4) pages in paper or electronic form.
- Substituted filing of ITR by employees receiving purely compensation income by their respective employers will be evidenced by the Certificate of Withholding filed and duly stamped "received" by the BIR.
- The rate of withholding of tax at source shall not be less than 1% but not more than 15% of the income payment beginning January 1, 2019.



ESTATE TAX

The rate of estate tax to be paid upon the transfer of the net estate of decedent to his heir or beneficiary is fixed at 6% of the value of net estate.

- Deductions allowed to the estate of a Citizen or Resident -
 - ✓ Standard deduction equivalent to Php5M;
 - ✓ Claims against the estate;
 - ✓ Claims of the deceased against insolvent persons where the value of the decedent's interest therein is included in the value of the gross estate;
 - ✓ Unpaid mortgages upon, or any indebtedness in respect to property of the decedent;
 - ✓ Property previously taxed;
 - ✓ Transfers for public use;
 - ✓ The Family home equivalent to current fair market value of the decedent's family home not exceeding Php10M; and
 - ✓ Amount received by heirs under RA 4917.
- Deductions allowed to the estate of a Non-Resident Citizen -
 - ✓ Standard deduction equivalent to Php5M;
 - ✓ Proportion of the following deductions:
 - Claims against the estate;
 - Claims of the deceased against insolvent persons, and
 - Unpaid mortgages upon, or any indebtedness in which the value of such part bears to the value of his entire gross estate wherever situated;
 - ✓ Property previously taxed;
 - ✓ Transfers for public use;
 - ✓ The family home equivalent to current fair market value of the decedent's family home not exceeding Php10M; and
 - ✓ Amount received by heirs under RA 4917.

- The net share of the surviving spouse in the conjugal partnership property diminished by the obligations properly chargeable to such property is deducted from the net estate of the decedent.
- The estate tax returns showing a gross value exceeding Php5,000,000 shall be supported with a statement duly certified to by a Certified Public Accountant (CPA).
- The estate tax returns shall be filed within one (1) year from the decedent's death.
- In case the estate is insufficient to pay the total estate tax due, payment by installment shall be allowed within two (2) years from the statutory date for its payment without civil penalty and interest.
- Withdrawals from the bank deposit account of the decedent are allowed subject to a final withholding tax of six (6%) percent.



DONOR'S TAX

The tax payable by a donor for each calendar year is at 6% based on the total gifts in excess of P250,000.00.

- Any contribution in cash or in kind to any candidate, political party or coalition of parties for campaign purposes shall be governed by the Election Code as amended.
- The Donor's Tax is not imposed on:
 - ✓ Gifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of the said Government.
 - ✓ Gifts in favor of an educational and/or charitable, religious, cultural or social welfare corporation, institution, accredited nongovernment organization, trust or philanthropic organization or research institution or organization: Provided, however, That not more than 30% of said gifts are to be used by such donee for administration purposes.



VAT

- The threshold gross sales/receipts is Php 3 Million.
- A purely self-employed individual and/or professional who is VAT registered but whose gross sales/receipts now fall below the new VAT threshold may change his status to NON-VAT and avail of:
 - The graduated income tax rates under Sec. 24 (A)(2)(a) of the NIRC, as amended; or

- ii. An 8% tax on gross sales/receipts and other non-operating income in excess of P250,000 in lieu of the graduated income tax rates and the percentage tax under Sec. 116 of the NIRC, as amended.

NOTE: Once the option is made, such is already irrevocable for that particular taxable year.

- The coverage is expanded to include:
 - Electric cooperatives;
 - Domestic shipping importation;
 - Power transmission;
 - Low-cost housing (price more than Php2 Million) and socialized housing (price more than Php 450,000) until 2020;
 - Lease of residential units (exceeding Php15,000);
 - Boy Scouts of the Philippines;
 - Philippine Sports Commission;
 - PTV Network;
 - Philippine Postal Corporation;
 - Bangko Sentral ng Pilipinas;
 - PhilHealth;
 - GSIS; and
 - SSS.
- Additional Exemptions include:
 - Sale of medicines prescribed for diabetes, high cholesterol, and hypertension beginning January 1, 2019;
 - Sale of gold to the Bangko Sentral ng Pilipinas;
 - Transfer of property under a de facto merger or consolidation; and
 - Condominium and homeowners association dues, membership fees and other charges.
- Indirect Exporters are still VAT zero rated until the establishment and implementation of an enhanced VAT refund system.
- The criteria of an enhanced VAT refund system:
 - All applications filed from 1 January 2018 shall be processed and must be decided within 90 days from the filing of the VAT refund application (NOTE: Failure on the part of the BIR official, agent or employee to act on the application within the 90 day period is punishable under Sec. 269 of the NIRC, as amended); and
 - All pending VAT refund claims as of December 31, 2017 shall be fully paid in cash by December 31, 2019.
- Official Development Assistance (ODA) projects are not subject to the final withholding VAT [Sec. 114(C)].

**CIGARETTE EXCISE TAX**

- The tax rates, per pack of 20s, on cigarettes packed by hand or by machine are:

◦ January 1 2018 – June 30 2018	⇒ 32.50
◦ July 1 2018 – December 31 2019	⇒ 35.00
◦ January 1 2020 – December 31 2021	⇒ 37.50
◦ January 1 2022 – December 31 2023	⇒ 40.00
◦ January 1 2024 onwards	⇒ 4% annual increase



- The tax rates are:

Petroleum product	Unit	2018	2019	2020 onwards
Lubricating oils & greases	Liter/kilogram	8.00	9.00	10.00
Processed gas	Liter	8.00	9.00	10.00
Waxes & petrolatum	Kilogram	8.00	9.00	10.00
Denatured alcohol	Liter	8.00	9.00	10.00
Naphtha, regular gasoline, pyrolysis gasoline	Liter	7.00	9.00	10.00
Unleaded premium gasoline	Liter	7.00	9.00	10.00
Aviation turbo jet fuel	Liter	4.00	4.00	4.00
Kerosene	Liter	3.00	4.00	5.00
Diesel fuel oil	Liter	2.50	4.50	6.00
Liquefied petroleum gas	Kilogram	1.00	2.00	3.00
Asphalts	Kilogram	8.00	9.00	10.00
Bunker fuel oil	Liter	2.50	4.50	6.00
Petroleum coke	Metric ton	2.50	4.50	6.00

PETROLEUM EXCISE TAX**AUTOMOBILE EXCISE TAX**

- The Tax Rates, imposed on the importer's or manufacturer's price, net of the excise and value-added taxes are:

Net Price (in Php)	Rate (in percent)	
	Traditional	Hybrid
Not more than 600,000	4	2
Over 600,000 up to 1M	10	5
Over 1M up to 4M	20	10
Over 4M	50	25

- A hybrid vehicle is a motor vehicle powered by electric energy in combination with gasoline, diesel or any motive power, that can propel itself from a stationary condition using solely electric motor.
- Additional tax-exempt vehicles include pick-up trucks and electric vehicles.

**TAX ON COSMETIC PROCEDURES**

- The tax rate and base are: 5% of the gross receipts on invasive cosmetic procedures, surgeries & body enhancements for aesthetic purposes.
- Exempt procedures include: 1) Procedures necessary to ameliorate a deformity arising from a congenital or developmental defect or abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease, tumor, virus or infection, 2) Cases or treatments covered by the National Health Insurance Program.

**SWEETENED BEVERAGE TAX****Type of Sweetened Beverage****Rate (Php)**

- ◆ sweetened beverages using purely caloric and purely non-caloric sweeteners, or a mix of caloric and non-caloric sweetener
⇒ 6.00 per liter
- ◆ sweetened beverages using purely high fructose corn syrup (HFCS) in combination with any caloric or non-caloric sweeteners
⇒ 12.00 per liter

- Taxable non-alcoholic beverages include:
 - ✓ Sweetened juice drinks ✓ Flavored water ✓ Cereal & grain beverages
 - ✓ Sweetened tea ✓ Energy & sports drinks ✓ Other non-alcoholic beverages with sugar added
 - ✓ Carbonated beverages ✓ Other powdered drinks not classified as milk, juice, tea, & coffee
- The list of exempt beverages includes:
 - ✓ All milk products ✓ Meal replacement & medically indicated beverages
 - ✓ 100% natural fruit juices ✓ Ground coffee, instant soluble coffee, & pre-packaged powdered coffee products (3-in-1, etc.)
 - ✓ 100% natural vegetable juices



EXCISE TAX ON MINERAL PRODUCTS

The tax rates are:

- Coal & coke, per metric ton:

Jan 1 2018	Jan 1 2019	Jan 1, 2020 onwards
Php50	Php100	Php150
- Metallic & non-metallic minerals & quarry resources: 4% of the actual market value of the gross output at the time of removal or the BOC valuation for determining tariff and customs duties, net of the excise and value-added taxes
- Indigenous petroleum: 6% of the fair international market price



DOCUMENTARY STAMP TAX

The tax rates are:

Document/Transaction	Rate & Base
Original issue of shares of stock	Php2.00 per Php200 or fractional part thereof, of the par value
Sales, agreements to sell, memoranda of sales, deliveries or transfer of shares or certificates of stock	Php1.50 per Php200 or fractional part thereof, of the par value of the stock

Document/Transaction	Rate & Base
Certificates of profits or interest in property or accumulations	Php1.00 per Php200 or fractional part thereof, of the face value
Bank checks, drafts, certificates of deposit not bearing interest and other instruments	Php3.00 per check, draft or certificate
Debt instruments	Php1.50 per Php200 or fractional part thereof, of the issue value
Bills of exchange or drafts; Acceptance of bills of exchange & others; Foreign bills of exchange and letters of credit	Php0.60 per Php200 or fractional part thereof, of the face value

Life insurance policies	Amount of insurance (in Php)	Rate (Php)
	Not more than 100,000	
	More than 100,000 up to 300,000	20.00
	More than 300,000 up to 500,000	50.00
	More than 500,000 up to 750,000	100.00
	More than 750,000 up to 1,000,000	150.00
	More than 1,000,000	200.00

Annuites	Php1.00 per Php200 or fractional part thereof, of the premium or instalment payment
Pre-need plans	Php0.40 per Php200 or fractional part thereof, of the premium or contribution
Certificates; Warehouse receipts; Proxies	Php 30.00
Jai-alai and horse race ticket, lotto or other authorized numbers games	Php0.20 per Php1.00 or fractional part thereof, of the cost of the ticket

Bills of lading or receipts		Value of goods	Rate (Php)
	Php100 – Php1,000	2.00	
	More than Php1,000	20.00	
Powers of attorney	Php10.00		
Leases and other hiring agreements			
	Value of agreement/lease	Rate (in Php)	
	First Php2,000	6.00	
	For every Php1,000 or fractional part thereof, in excess of the first Php2,000	2.00	
Mortgages, pledges and deeds of trust			
	Amount secured	Rate (Php)	
	First Php5,000	40.00	
	For every Php5,000 or fractional part thereof, in excess of the first Php5,000	20.00	
Deeds of sale, conveyances and donation of real property, except those exempt from the donor's tax	Php15.00 per Php1,000 or fractional part thereof, of the consideration or value		
Charter parties and similar instruments			
	Registered tonnage	Rate (Php)	
	Not more than 1,000 tons	Php1,000 on the first 6 months, and Php100 for each month/fractional part in excess of 6 months	
	1,000 tons – 10,000 tons	Php2,000 on the first 6 months, and Php200 for each month/fractional part in excess of 6 months	
	More than 10,000 tons	Php3,000 on the first 6 months, and Php300 for each month/fractional part in excess of 6 months	



ADMINISTRATIVE MEASURES

- Mandatory marking of all fuel products and imposition of fines for related offences.
- Use of appropriate counting or metering devices to determine volume of fuel importation and production.
- Issuance of receipts or sales or commercial invoices on the sale and transfer of merchandise or for services rendered valued at Php100 or more.
- By 2023, those engaged in the export of goods and services, taxpayers engaged in e-commerce and those belonging to the Large Taxpayers Service are required (1) to issue electronic receipts or sales or commercial invoices and (2) to electronically report their sales data to the Bureau of Internal Revenue (BIR).
- Fine for attempt to evade or defeat tax is set at not less than Php500,000 but not more than Php10,000,000 and imprisonment of not less than 6 years but not more than 10 years.
- Fine for printing of (a) receipts without authority of the BIR, (b) double or multiple sets, or (c) unnumbered receipts is set at not less than Php500,000 but not more than Php10,000,000 and imprisonment of not less than 6 years but not more than 10 years.
- Penalty for failure to transmit sales data to the BIR's electronic sales reporting system is 1/10 of 1% of the annual income or Php10,000, for each day.
- Fine for the purchase/use/possession/sale- or-offer-to-sell/installation/transfer/update/upgrade/ maintenance of sales suppression devices is set at not less than Php500,000 but not more than Php10,000,000 and imprisonment of not less than 2 years but not more than 4 years.



REPEALED PROVISIONS

INCOME TAX EXEMPTION

- PWD as dependent
- Foster Child as dependent

VAT EXEMPTION

AGRICULTURE

- ◊ High Value Crops Development Act of 1995
- ◊ Philippine Fisheries Code of 1998
- ◊ Seed Industry Development Act of 1992
- ◊ Organic Agriculture Act of 2010
- ◊ National Dairy Development Act of 1995

HEALTH

- ◊ Rare Diseases of the Philippines
- ◊ Magna Carta for Persons with Disabilities
- ◊ National Health Insurance of 1995
- ◊ Traditional and Alternate Medicine Act (TAMA) of 1997

ENVIRONMENT

- ◊ Ecological Solid Waste Management Act of 2000
- ◊ Philippine Clean Water Act of 2004

HOUSING

- ◊ Home Development Mutual fund
- ◊ Balance Housing Development Program
- ◊ Urban Development Housing Act

ELECTRICITY

- ◊ National Grid Corp. of the Philippines Act

INDUSTRY

- ◊ Investors and Inventions Incentives Act of the Phils.
- ◊ Downstream Oil Industry Deregulation Act
- ◊ Jewelry Industry Development Act
- ◊ Regional or Area Headquarters, Regional Operating Headquarters and Regional Warehouses of Multinational Companies
- ◊ The New Central Bank Act
- ◊ Iron and Steel Industry Act
- ◊ Philippine Green Jobs Act
- ◊ Phil. Halal Export Development and Promotion Act of 2016
- ◊ Civil Avian Authority Act of 2008

EDUCATION AND ARTS

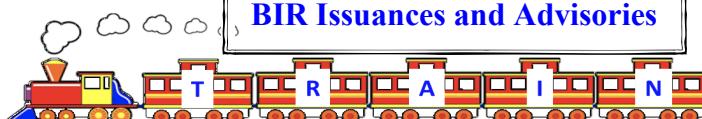
- ◊ Aklan State College of Agriculture
- ◊ The Philippine State College of Aeronautics
- ◊ Batangas State University
- ◊ Sta. Rosa Science and Technology High School
- ◊ UP Charter of 2008
- ◊ Philippine Normal University Modernization Act of 2009
- ◊ Science Act
- ◊ Davao Oriental State College of Science and Technology
- ◊ National Commission for Culture and Arts
- ◊ National Museum Act of 1998
- ◊ Eastern Visayas Science High School
- ◊ Higher Education Modernization Act of 1997
- ◊ Aklan State University
- ◊ An act Establishing the Guimaras State College
- ◊ Mindanao University of Science and Technology
- ◊ UP Franchise to install Radio and Television Broadcasting Stations
- ◊ Negros Occidental Agricultural College
- ◊ An act Establishing the Guimaras Philippine Sports Commission Act
- ◊ Manlilikha ng Bayan Act
- ◊ Strengthening People's Nationalism through Philippine History Act

OTHERS

- ◊ Postal Service Act
- ◊ GSIS Act of 1997
- ◊ Veterans Federation of the Philippines
- ◊ Charity Sweepstakes, Horses Races and Lotteries
- ◊ Boy Scout of the Philippines
- ◊ The Social Security Act
- ◊ PDIC Charter
- ◊ Revised AFP Modernization Program
- ◊ Overseas Workers Welfare Administration Act
- ◊ Charter of the People's Television Network Inc.



BIR Issuances and Advisories



- ◊ Implementing the increase in the stock transfer tax pursuant to the provisions of TRAIN Act. [RR 9-2018](#)
 - https://www.bir.gov.ph/images/bir_files/internal.communications_1/Full%20Text%20RR%202018/RR%20No.%209-2018.pdf
- ◊ Revenue Regulations implementing the Income Tax Provisions of the TRAIN Act. [RR 8-2018](#)
 - https://www.bir.gov.ph/images/bir_files/internal.communications_1/Full%20Text%20RR%202018/RR%20No.%208-2018.pdf
- ◊ Instructions for taxpayers subject to Percentage Tax and those required to withhold other Percentage Taxes and VAT, including VAT on government money payments and payments to non-residents. [advisory1/advisory2](#)
 - https://www.bir.gov.ph/images/bir_files/internal.communications_1/Advisory/tax%20advisory%20BIR%20Form%20shall%20be%20used%20for%20VAT.pdf
 - https://www.bir.gov.ph/images/bir_files/internal.communications_1/Advisory/supplemental%20tax%20advisory_copy.pdf

- ❖ All National Government Agencies shall use BIR Form No. 0605 in the filing and remittance of creditable and final withholding taxes thru the Electronic Filing and Payment System. [more](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/Advisory/Tax%20Advisory-NGAs.pdf
- ❖ Withholding Agents shall remit their creditable and final withholding taxes for the first two (2) months of every quarter using BIR Form No. 0605 and indicating MC 200 for the ATC and WE or WF for the tax type, whichever is applicable. [more](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/Advisory/tax%20advisory_clarificationJan%2031post.pdf
- ❖ Taxes withheld within the first two (2) months and on the 3rd month of every taxable quarter shall be remitted thru BIR Form 0605 and BIR Form 1601EQ, respectively. [more](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/Advisory/tax%20advisory1.pdf
- ❖ All employees of Regional Headquarters and Regional Operating Headquarters of multinational companies; offshore banking units; and petroleum service contractors and subcontractors enjoying preferential tax treatment prior to 2018 are now subject to regular Income Tax rates. [more](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/Advisory/tax%20adv_corrected.pdf
- ❖ Creation and modification of Alphanumeric Tax Code (ATC) of selected revenue source under the TRAIN Law. [RMO 9-2018](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_3/Full%20Text%20of%20RMO%202018/RMO%20No.%209-2018.pdf
- ❖ Transitory guidelines relative to the implementation of TRAIN Law governing Excise Tax on petroleum products, automobiles and sweetened beverages, pending the issuance of the Implementing Rules and Regulations. [OM2018-01-03/Annex A/Annex B1/Annex B2/Annex B3/Annex C1/Annex C2/Annex C3/Annex D](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/Operations%20Memo/2018/OM%20No.%202018-01-03.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/Operations%20Memo/2018/Annex%20B1_2018-01-03.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/Operations%20Memo/2018/Annex%20B2_2018-01-03.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/Operations%20Memo/2018/Annex%20B3_2018-01-03.pdf
- ❖ Advisory for purely self-employed individuals and/or professionals who are VAT-registered taxpayers and whose gross sales/receipts and other non-operating income do not exceed the new VAT threshold of Php 3,000,000 in the preceding year. [Advisory](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/Advisory/tax%20advisory-procedures.pdf
- ❖ Proposed Revenue Regulations on the Tax Reform for Acceleration and Inclusion (TRAIN) Act. [Proposed RR-VAT/Proposed RR-Sweetened Beverages/Proposed RR-Cosmetic Procedures](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/TRAIN%20matters/RR%20VAT%20FOR%20PUBLIC%20CONSULTATION.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/TRAIN%20matters/RR%20SB%20TAX%20FOR%20PUBLIC%20CONSULTATION.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/TRAIN%20matters/RR%20CP%20TAX%20FOR%20PUBLIC%20CONSULTATION.pdf
- ❖ Advisory on dedicated e-mail account for attachment to Excise Tax Return BIR Form No. 2200-S (for sweetened beverages) and BIR Form No. 1620-XC (for cosmetic procedures). [Advisory](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_1/TRAIN%20matters/advisory-dedicated%20email_copy.pdf
- ❖ Transition procedures in the filing of tax returns affected by the revised tax rates pursuant to the TRAIN Act. [RMC 2-2018/RMC 3-2018/RMC 4-2018](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2018/RMC%20No%202-2018.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2018/RMC%20No%203-2018.pdf
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/RMCs/2018/RMC%20No%204-2018.pdf
- ❖ Taxpayers subject to Excise Tax and using eFPS are mandated to e-file and e-pay the corresponding Excise Taxes due on removals, effective January 1, 2018. [more](#)
 - https://www.bir.gov.ph/images/bir_files/internal_communications_2/Operations%20Memo/2018/OM%20No.%202018-01-01_copy.pdf

ENGAGEMENTS



- ❖ **4th Lecture Series on TRAIN Law**
"NAVIGATING RA 10963 TAX REFORM FOR ACCELERATION AND INCLUSION (TRAIN) LAW: ITS FEATURES AND IMPACT
(February 27, 2018)



Atty. Rodelio T. Dascil, STSRO Director General, Keynote Speaker on the topic "Orientation on the Tax Reform for Acceleration and Inclusion TRAIN Law" before LGUs, students, teachers and government employees, held at College of Public Affairs and Development, University of the Philippines, Los Baños, Laguna.



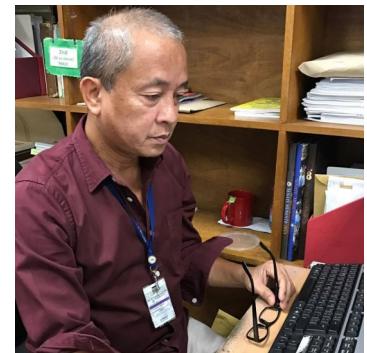
- ❖ **3rd Lecture Series on TRAIN Law**
"The excise tax on sweetened beverages as prescribed in the TRAIN Law its Pros and Cons : the possible effects of said tax in small scale business"
(February 23, 2018)



Atty. Rodelio T. Dascil, STSRO Director General, Keynote Speaker on the topic "The excise tax on sweetened beverages as prescribed in the TRAIN Law its Pros and Cons: the possible effects of said tax in small scale business" before the Political Science students and other stakeholders at University of Caloocan City.

❖ **Why Pursue Federalism? Why Not Just Amend the Local Government Code?**
 (February 13, 2018)

Dir. Clinton Martinez of Legal and Tariff Branch, STSRO, attended the forum at Speaker Montilla Hall, South Wing Annex, House of Representatives.



❖ **4th Public Hearing on the General and Estate Tax Amnesty and Tax Exemption on the Sale of Gold to Bangko Sentral ng Pilipinas.**
 (February 12, 2018)



In Photos : Chairperson of Committee on Ways and Means, Sen. Sonny Angara and STSRO Director General Atty. Rodelio T. Dascil, held at Sen. Pecson Room, Senate of the Philippines



❖ **2nd Lecture Series on TRAIN Law during the 39th PAWD National Convention 2018.**
 Held at Iloilo Convention Center, Iloilo City
 (February 7 - 9, 2018)



Atty. Rodelio T. Dascil, STSRO Director General was awarded with two Presentations in One Day : a Keynote Speaker on Impact of Train Law (RA 10963) to Water Districts; and as a Reactor on Compliance to Regulations and Policies under RA 10026 before 2,200 registered delegates

- ❖ Briefing on the Proposed Package 2 of the Comprehensive Tax Reform Program.
(February 5, 2018)



Chairperson on the Committee on Ways and Means, Sen. Sonny Angara, STSRO Director General Atty. Rodelio T. Dascil, and Dir. Bong Villanueva of Tax Policy and Administration Branch, held at the Committee Room 1, Senate of the Philippines



- ❖ Public Hearing on SRN 287 - Establishing the Senate Institute on Legislative Studies and Training Center (SILSTC).

(January 30, 2018)



Atty. Rodelio T. Dascil, STSRO Director General as a Resource Person, held at the Senator Recto Room, Senate of the Philippines.



- ❖ 1st Lecture Series on the TRAIN Law
"Navigating the TRAIN Law: Ins and Outs of the New Tax Law"
(January 27, 2018)



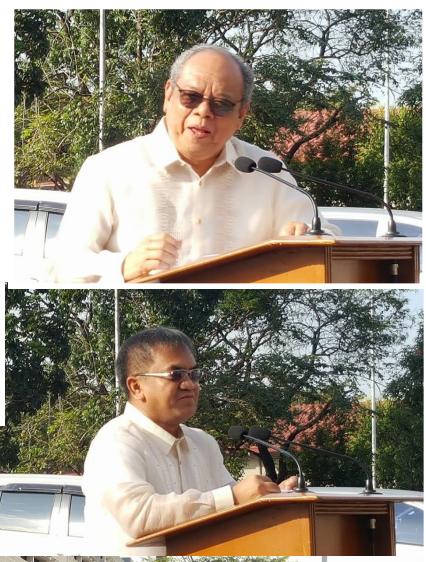
Atty. Rodelio T. Dascil, STSRO Director General, as Resource Person before lawyers, accountants and practitioners organized by the Integrated BAR of the Philippines (IBP), Quezon City Chapter. Lecture Room B, Legislative Bldg., Quezon City Hall.



Flag Raising Ceremony Hosted by



February 12, 2018



with Guest Speaker:
Mrs. Lourdes Dela Llana Pimentel
Representing the Senate Spouses Foundation, Inc.



- ❖ **STSRO's 2018 New Year's Celebration**
(January 13, 2018)



STSRO'S EDUCATIONAL CAMPAIGN ON TRAIN LAW (RA 10963) AND OTHER TAXATION MATTERS

5 Down and 7 to Go!

1. **The TRAIN Law and its effect to the Youth.** March 21, 2018, (Wednesday), 8:00 am, at Quezon City Academy, EDSA, Quezon City. Guest Speaker Atty. Rodelio T. Dascil, STSRO Director General.
2. **TRAIN Law and the Maritime Profession.** March 24, 2018, Philippine Maritime Institute, Bohol.
3. **TRAIN Law and its Impact on Custom Administration.** April 5, 2018, Philippine Maritime Institute, Quezon City.
4. **TRAIN Law and its Relation to Customs Profession.** April 12, 2018, Philippine Maritime Institute, Manila City.
5. **Impact of the TRAIN Law to National Security.** April 20, 2018, (Friday), at Honors Hall, National Defense College of the Philippines, (NDCP), Camp General Emilio Aguinaldo, Quezon City. Guest Speaker, Atty. Rodelio T. Dascil, STSRO Director General, with Dir. Lou Mir of Direct Tax Branch and Dir. Rechie Gascon of Tax Policy and Administration Branch as reactors.
6. **The TRAIN Law and other laws that Affect the Publishing and Printing Industries.** April 26, 2018 (Thursday); Rex Knowledge Center, Quezon City. Resource Person Atty. Rodelio T. Dascil, STSRO Director General.
7. **Significant Role of Customs Profession in International Trade Facilitation; Updates on newly issued CAOs, and CMOs pursuant to CMTA as well as impact of the TRAIN Law on Trade matters,** April 27, 2018 (Friday) at 3:00 pm, PICC, Pasay City. Commencement Speaker, Atty. Rodelio T. Dascil, STSRO Director General.



Sen. Angara made the following remarks during the Deliberation/Discussion on the General Tax Amnesty and Estate Tax Amnesty Bill as Complementary Measures to TRAIN Bills on November 8, 2017

"I think one of the reforms that they were doing simultaneously was the switch to an automatic exchange of information rather than a request regime for exchange of information. So that's why they would have gotten more information from abroad about wealth held by Indonesians abroad. So I guess that was the incentive for Indonesian to say, "Naku, mahuhuli na ako. Magbayad na ako." Hindi ba? So we need—like I said, we have to be practical about it. I mean the books tell us one thing, but experience will also tell us other things that what works and what doesn't work. And siguro in the past, why we haven't had that much success with tax amnesties is because what Asec Joven said nga, iyong masyadong madalas. If we look at the Martial Law history, halos every year mayroon tayong amnesty. So there was clearly no last chance there.

xxx

This hearing is called primarily for the tax amnesty bill which we know is an accompanying measure to the TRAIN package being pushed by the administration. One aspect we would like to touch on is the possible expansion, given that the House has passed a measure to have an estate tax amnesty. But certain senators would like to expand it to include a general amnesty. And if I am not mistaken, the last general tax amnesty we had was in 2008. So we would like to solicit your opinion as to whether it's a good time to have it. And assuming it is, what are the conditions that we must place in the measure to ensure that it raises the sufficient funds for the government; and that it will properly incentivize taxpayers to come forward and settle any delinquencies or—We've seen Indonesia had a very successful tax amnesty recently. I think that is still ongoing. "



CHEVRON PHILIPPINES INC., Petitioner, v. COMMISSIONER OF INTERNAL REVENUE, Respondent, G.R. No. 210836, September 01, 2015 (BERSAMIN, J.)

Facts:

Petitioner Chevron Philippines Inc. (Chevron) sold and delivered petroleum products to Clark Development Corporation (CDC) from August to December 2007. The excise tax on said transaction was

paid for by Chevron. The latter filed on June 26, 2009 an administrative claim for tax refund or issuance of a tax credit certificate (TCC) covering the said payment in the amount of P6,542,400.00. Respondent Commissioner of Internal Revenue (CIR) did not act on the claim forcing petitioner to elevate it with the Court of Tax Appeals (CTA). The case was raffled with the First Division. The CTA First Division denied Chevron's judicial claim for refund and also its Motion for Reconsideration (MR). Subsequently, petitioner appealed to the CTA *En Banc*, which affirmed the decision of the First Division. The MR of Chevron likewise did not have favorable result, hence it appealed to the Supreme Court (SC) Second Division. The latter denied the motion and Chevron moved for an MR stating that the former case (*Pilipinas Shell*, G.R. No. 188497, 671 SCRA 241) relied upon the Second Division was reconsidered by the SCs First Division.

Issue:

"The lone issue for resolution is whether Chevron was entitled to the tax refund or the tax credit for the excise taxes paid on the importation of petroleum products that it had sold to CDC in 2007."

Held:

The SC *En Banc* ruled in favor of petitioner Chevron. The SC elucidated:

"Pilipinas Shell concerns the manufacturer's entitlement to refund or credit of the excise taxes paid on the petroleum products sold to international carriers exempt from excise taxes under Section 135(a) of

the NIRC. However, the issue raised here is whether the importer (i.e., Chevron) was entitled to the refund or credit of the excise taxes it paid on petroleum products sold to CDC, a tax-exempt entity under Section 135(c) of the NIRC. Notwithstanding that the claims for refund or credit of excise taxes were premised on different subsections of Section 135 of the NIRC, the basic tax principle applicable was the same in both cases - that excise tax is a tax on property; hence, the exemption from the excise tax expressly granted under Section 135 of the NIRC must be construed in favor of the petroleum products on which the excise tax was initially imposed."

Ergo, the excise taxes that petitioner paid on the importation of petroleum products under this case were illegal and erroneous. The same should be refunded or a TCC must be issued in favor of Chevron.

The Court pointed out:

"Under Section 129¹⁷ of the NIRC, as amended, excise taxes are imposed on two kinds of goods, namely: (a) goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition; and (b) things imported. Undoubtedly, the excise tax imposed under Section 129 of the NIRC is a tax on property.

"With respect to imported things, Section 131 of the NIRC declares that excise taxes on imported things shall be paid by the owner or importer to the Customs officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, unless the imported things are exempt from excise taxes and the person found to be in possession of the same is other than those legally entitled to such tax exemption. For this purpose, the statutory taxpayer is the importer of the things subject to excise tax.

"X x x.

"Pursuant to Section 135 (c), supra, petroleum products sold to entities that are by law exempt from direct and indirect taxes are exempt from excise tax. The phrase which are by law exempt from direct and indirect taxes describes the entities to whom the petroleum products must be sold in order to render the exemption operative. Section 135(c) should thus be construed as an exemption in favor of the petroleum products on which the excise tax

was levied in the first place. The exemption cannot be granted to the buyers - that is, the entities that are by law exempt from direct and indirect taxes - because they are not under any legal duty to pay the excise tax.

"CDC was created to be the implementing and operating arm of the Bases Conversion and Development Authority to manage the Clark Special Economic Zone (CSEZ). As a duly-registered enterprise in the CSEZ, CDC has been exempt from paying direct and indirect taxes pursuant to Section 24 of Republic Act No. 7916 (The Special Economic Zone Act of 1995), in relation to Section 15 of Republic Act No. 9400 (Amending Republic Act No. 7227, otherwise known as the Bases Conversion Development Act of 1992).

"Inasmuch as its liability for the payment of the excise taxes accrued immediately upon importation and prior to the removal of the petroleum products from the customs house, Chevron was bound to pay, and actually paid such taxes. But the status of the petroleum products as exempt from the excise taxes would be confirmed only upon their sale to CDC in 2007 (or, for that matter, to any of the other entities or agencies listed in Section 135 of the NIRC). Before then, Chevron did not have any legal basis to claim the tax refund or the tax credit as to the petroleum products.

"Consequently, the payment of the excise taxes by Chevron upon its importation of petroleum products was deemed illegal and erroneous upon the sale of the petroleum products to CDC. Section 204 of the NIRC explicitly allowed Chevron as the statutory taxpayer to claim the refund or the credit of the excise taxes thereby paid. X x x.

"It is noteworthy that excise taxes are considered as a kind of indirect tax, the liability for the payment of which may fall on a person other than whoever actually bears the burden of the tax. Simply put, the statutory taxpayer may shift the economic burden of the excise tax payment to another - usually the buyer.

"In cases involving excise tax exemptions on petroleum products under Section 135 of the NIRC, the Court has consistently held that it is the statutory taxpayer, not the party who only bears the economic burden, who is entitled to claim the tax refund or tax credit. But the Court has also made clear that this rule does not apply where the law grants the party to whom

the economic burden of the tax is shifted by virtue of an exemption from both direct and indirect taxes. In which case, such party must be allowed to claim the tax refund or tax credit even if it is not considered as the statutory taxpayer under the law.

"The general rule applies here because Chevron did not pass on to CDC the excise taxes paid on the importation of the petroleum products, the latter being exempt from indirect taxes by virtue of Section 24 of Republic Act No. 7916, in relation to Section 15 of Republic Act No. 9400, not because Section 135(c) of the NIRC exempted CDC from the payment of excise tax.

"Accordingly, x x x Chevron was entitled to the refund or credit of the excise taxes erroneously paid on the importation of the petroleum products sold to CDC."

The Court made no pronouncements as to cost and decided the case in favor of petitioner Chevron.

W²KCS

**COMMISSIONER OF INTERNAL REVENUE,
Petitioner, v. NIPPON EXPRESS (PHILS.)
CORPORATION, Respondent, G.R. No. 212920,
September 16, 2015 (PERLAS-BERNABE, J)**

Facts:

Respondent Nippon Express (Phils.) Corporation (Nippon), on April 22, 2004, filed an administrative claim for refund of its unutilized input VAT in the amount of P24,644,506.86 for the year 2002 before the Bureau of Internal Revenue (BIR). A day later, or on April 23, 2004, it filed a judicial claim for tax refund, by way of petition for review, before the CTA, docketed as CTA Case No. 6967.

Petitioner Commissioner of Internal Revenue (CIR) asserted, *inter alia*, that the amounts being claimed by Nippon as unutilized input VAT were not properly documented, hence, should be denied.

The Court of Tax Appeals (CTA) Division partially granted Nippon's tax refund claim and ordered the CIR to issue a tax credit certificate (TCC) in a smaller amount (P 2,614,296.84) representing its unutilized input value added tax (VAT), relating to its zero-rated sales, in its decision of August 10, 2011. It ruled that: "X x x while Nippon timely filed its administrative and judicial claims within the two (2)-year prescriptive period, it, however, failed to show that the recipients of its services - which, in this case, were mostly Philippine Economic Zone Authority registered enterprises - were non-residents "doing business outside the Philippines." Accordingly, it concluded that Nippon's purported sales therefrom could not qualify as zero-rated sales, hence,

the reduction in the amount of tax credit certificate claimed."

Respondent Nippon filed a motion to withdraw on August 12, 2011, before its receipt of the August 10, 2011 decision inasmuch as its administrative claim had been acted upon favorably, the CIR having issued TCC in the amount of P21,675,128.91.

The CIR moved for reconsideration of the August 10, 2011 Decision and filed its comment/opposition to Nippon's motion to withdraw, asserting that: (a) the CTA Division had already resolved the factual issue pertaining to Nippon's entitlement to a tax credit certificate, which, after trial, was proven to be only in the amount of P2,614,296.84; (b) the issuance of the July 27, 2011 Tax Credit Certificate was bereft of factual and legal bases, and prejudicial to the interest of the government; and (c) Nippon's motion to withdraw was "tantamount to [a] withdrawal and abandonment of its motion for reconsideration also filed in this case."

Subsequently, respondent also sought for reconsideration "praying that the CTA Division set aside its August 10, 2011 Decision and render judgment ordering the CIR to issue a tax credit certificate in the full amount of P24,644,506.86, or in the alternative, grant its motion to withdraw."

"In a Resolution dated July 31, 2012, the CTA Division granted Nippon's motion to withdraw and, thus, considered the case closed and terminated. It found that pursuant to Revenue Memorandum Circular No. 49-03 (RMC No. 49-03) dated August 15, 2003, Nippon correctly availed of the proper remedy notwithstanding the promulgation of the August 10, 2011 Decision."

The CTA En Banc affirmed the Resolution of the Division dated July 31, 2014.

Issue:

The main issue is whether the CTA properly granted Nippon's motion to withdraw.

Held:

The Supreme Court (SC) ruled that the petition is with merit. The SC stressed that in the absence of CTA rules on a certain issue, the Revised Rules of Court applies suppletorily.

Additionally, the SC said that despite the CTA Divisions prerogative to grant a motion to withdraw, the prevailing circumstances of this case should have triggered it to act differently. The SC said:

"First, it should be pointed out that the August 10, 2011 Decision was rendered by the CTA Division after a full-blown hearing in which the parties had already ventilated their claims. Thus, the findings contained therein were the results of an exhaustive study of the pleadings

and a judicious evaluation of the evidence submitted by the parties, as well as the report of the commissioned certified public accountant.

"X x x.

"The primary reason, however, that militates against the granting of the motion to withdraw is the fact that the CTA Division, in its August 10, 2011 Decision, had already determined that Nippon was only entitled to refund the reduced amount of P2,614,296.84 since it failed to prove that the recipients of its services were non-residents "doing business outside the Philippines"; hence, Nippon's purported sales therefrom could not qualify as zero-rated sales, necessitating the reduction in the amount of refund claimed. Markedly different from this is the BIR's determination that Nippon should receive P21,675,128.91 as per the July 27, 2011 Tax Credit Certificate, which is, in all, P19,060,832.07 larger than the amount found due by the CTA Division. Therefore, as aptly pointed out by Associate Justice Teresita J. Leonardo-De Castro during the deliberations on this case, the massive discrepancy alone between the administrative and judicial determinations of the amount to be refunded to Nippon should have already raised a red flag to the CTA Division. Clearly, the interest of the government, and, more significantly, the public, will be greatly

prejudiced by the erroneous grant of refund - at a substantial amount at that - in favor of Nippon. Hence, under these circumstances, the CTA Division should not have granted the motion to withdraw.

"Finally, the Court has observed that based on the records, Nippon's administrative claim for the first taxable quarter of 2002 which closed on March 31, 2002 was already time-barred for being filed on April 22, 2004, or beyond the two (2)-year prescriptive period pursuant to Section 112(A) of the National Internal Revenue Code of 1997. Although prescription was not raised as an issue, it is well-settled that if the pleadings or the evidence on record show that the claim is barred by prescription, the Court may motu proprio order its dismissal on said ground."

Worth studying is the dispositive portion of the SC ruling that the petition of the CIR is granted without prejudice to the prerogative of the parties to appeal in pursuance with the provisions of the Revised Rules of the Court of Tax Appeals.



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