



## Tax in a dot

### Revenue Regulations No. 01-2017 - Non-retroactive effect of "deemed denial" rule on VAT claims

Pursuant to the Supreme Court decision involving Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue (G.R. No. 207112), the Bureau of Internal Revenue (BIR) clarified that the rule enunciated under Revenue Memorandum Circular (RMC) No. 54-2014 that the inaction of the BIR on application for tax credit or refund of input VAT within 120 days from date of submission of documents shall be deemed a denial does not have any retroactive effect. Hence, pending claims for VAT refund prior to the effectivity of RMC 54-2014 on 11 June 2014, should be pursued as provided under the rules and

regulations prevailing before 11 June 2014.

In order to afford fair and adequate relief to taxpayer-claimants whose claims were "deemed denied" as a result of the retroactive application of RMC 54-2014, i.e., claims for tax credit/refund filed before 11 June 2014, the BIR prescribed the following rules on the processing of their administrative claims for VAT refund:

1. Under Section 112(A) of the Tax Code, as amended, the claimant-taxpayer has two years after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must have submitted his complete documents in support of the application filed. Only upon the complete submission of his documents in support of his application can it be said that the application was "officially received", as clarified under RMC No. 49-2003.
2. In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section f 12 (A) of the Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date of filing of the application, if the claimant-taxpayer did not submit additional documents.

Hence, pending administrative claims filed prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period.

However, the following claims filed and pending before the effectivity of RMC 54-2014 shall not be covered by the above rules: (a) VAT refund claims filed beyond the two-year statutory period prescribed under Section 112(A) of the Tax Code; (b) those defined in writing by the approving authority; (c) those approved or granted fully or partially by the approving authority; and (d) those that are already in the appeals stage and are pending with the Court of Tax Appeals (CTA), unless there is proof of withdrawal of the case filed with the CTA.

Please see attached copy of Revenue Regulations NO. 01-2017 for further information and guidance.

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