



Tax in a Dot Hot and fresh!

Dear Valued Clients and Friends,

The Bureau of Internal Revenue (BIR) issued Revenue Memorandum Circular (RMC) No. 54-2014 clarifying the issues relative to the Application for Value Added Tax (VAT) Refund/Credit. The Circular summarizes the rules on filing and processing of applications for VAT refund/tax credit as clarified by the Supreme Court in *Commissioner of Internal Revenue vs. San Roque Power Corporation* and in *Mindanao II Geothermal Partnership vs. Commissioner of Internal Revenue*.

The BIR reiterates the provision provided in Section 112 (A) of the Tax Code, as amended, that any VAT-registered person whose sales are zero-rated or effectively zero-rated may apply for the issuance of the tax credit certificate (TCC) or refund of creditable input tax due or attributable to such sales, except transitional input tax, within 2 years after the close of the taxable quarter when sales were made. The application for VAT refund/tax credit must be supplemented with complete supporting documents enumerated in Annex "A" of the said RMC. Further, the taxpayer/claimant shall attach a statement under oath attesting the completeness of the submitted documents (Annex "B").

Once the administrative claim and its supporting documents are submitted, the taxpayer/claimant can no longer submit other documents in the course of the evaluation of the claim. If the taxpayer/claimant failed to submit the complete supporting documents, the application shall be denied with a corresponding Denial Letter issued to the taxpayer/claimant.

The Commissioner of Internal Revenue (CIR) shall have 120 days from the date of submission of complete documents to decide whether or not to grant the claim for refund or issuance of the TCC for creditable input taxes. If no action is made by the CIR within the 120-day period, the application for tax refund or credit is deemed denied. In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the CIR to act on the application, the taxpayer can (1) file the judicial claim with the Court of Tax Appeals (CTA) within 30 days after the CIR denies the claim, or (2) file the judicial claim within 30 days from the expiration of the 120-day period if the CIR failed to act on the claim. It is worth mentioning that the taxpayer/claimant is required to observe the 120+30 day rule before filing a petition for review with the CTA.

However, as an exception to the 120+30 day period, it was emphasized that from the time of issuance of BIR Ruling No. DA-489-03 on December 20, 2003 up to its reversal by the Supreme Court in the Aichi case on October 6, 2010, taxpayers/claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review. This exception is limited to cases of premature filing (filing of judicial claim prior to the lapse of the 120-day period) and *does not extend to late filing of a judicial claim*.

If the taxpayer/claimant failed to file a judicial claim with the CTA within 30 days from the expiration of the 120-day period, the CIR's decision or inaction "deemed a denial" becomes final and unappealable.

http://www.bir.gov.ph/images/bir_files/old_files/pdf/87996RMC%20No%2054-2014.pdf

http://www.bir.gov.ph/images/bir_files/old_files/pdf/87996Annex%20A.pdf

http://www.bir.gov.ph/images/bir_files/old_files/others/87996Annex%20B.docx

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