

# TAX REMEDIES

03.07.25 [FRIDAY] 6:30-9:30PM [LCRC MARCH 2025 WEBINAR]

**WILLIE B. SANTIAGO, LAWYER AND CERTIFIED PUBLIC ACCOUNTANT**  
**MCLE LECTURER AND CPALE REVIEWER**



A person wearing a blue and white plaid shirt is sitting at a wooden desk. Their hands are resting on the desk. In the foreground, there is a black keyboard, a blue calculator, and a yellow cup. The background is slightly blurred, showing a window with light coming through.

# **TAX REMEDIES**

- ❑ Remedies ensure fairness & due process for TPs while allowing the government to collect revenue efficiently.



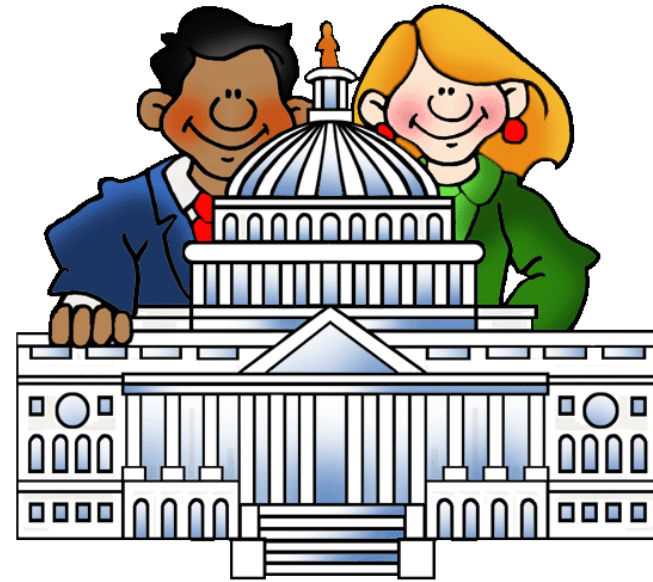
# IMPORTANCE OF TAX REMEDIES

- ❑ To enhance government tax collection efforts
- ❑ Safeguard against arbitrary actions



# REMEDIES

On part of the **government**



On part of the **taxpayer**





# **TAX REMEDIES OF THE GOVERNMENT**



# Civil remedies for the collection of taxes, fees or charges

## 1. Summary Proceedings

- Distraint of personal property &
- Levy upon RP & interest in or rights to RP

## 2. Judicial Proceedings

- Civil action
- Criminal action





- ❑ Remedies of **distrain & levy shall not be availed** of where the amount of tax involved is **not more than 100**



# Distrain of Personal Property

**1. ACTUAL DISTRRAINT**

**2. CONSTRUCTIVE DISTRRAINT**



# Person who shall seize & distraint PP

AMOUNT OF DELINQUENCY TAX	INCHARGE
More than 1M	CIR or his duly authorized representative
1M or less	Revenue District Office

CIR or his duly authorized representative shall have the **power to lift order of distraint**

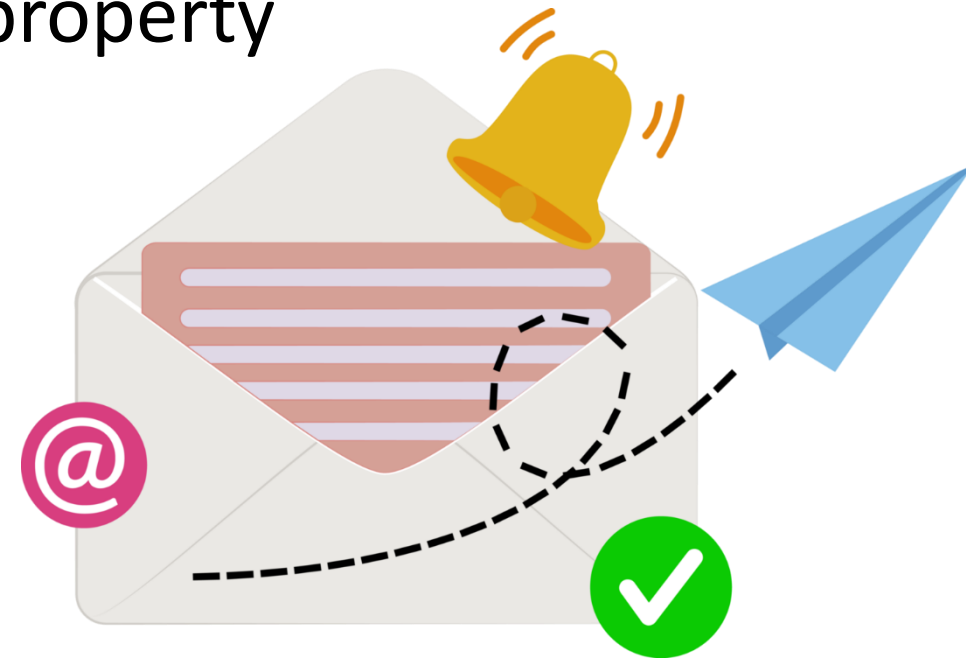
# Levy on Real Property

- ❑ After the expiration of the time required to pay the delinquent tax or delinquent revenue, RP may be levied upon before, simultaneously or after the distraint of PP belonging to the delinquent TP



## Written notice of the levy shall be mailed to or served upon the:

1. Register of Deeds of the province or city where the property is located &
2. Upon the delinquent TP
3. Or if he is absent from the PH, to his agent or manager
4. Or if there is none, to the occupant of property



# Redemption of Property Sold

Property sold may be redeemed w/in 1 year from the date of sale by paying:

- a. Amount of public taxes
- b. Penalties &
- c. Interest thereon from the date of delinquency to the date of sale with
- d. 15% interest per annum**





**INJUNCTION NOT AVAILABLE TO  
RESTRAIN COLLECTION OF TAXES**

- ❑ No court shall have the authority to grant injunction to restrain the collection of any national internal revenue tax, fee, or charge imposed by the Tax Code [Sec. 218, NIRC]



- ❑ Can issue injunctions while in the exercise of its appellate jurisdiction in cases pending before it
- ❑ May enjoin collection of taxes if in its opinion the same may jeopardize the interest of the gov't &/or TP

# Tax Lien & Remedy for Enforcement of Statutory Penal Provision



- ❑ Legal claim or charge on property, either real or personal, as security from the payment of tax obligation

- ❑ Remedy for enforcement of all sorts shall be by criminal or civil action



# **PERIOD FOR ASSESSMENT & COLLECTION**

- 
- ❑ Internal revenue taxes shall be assessed within **3 years** after the due date, or from the day the return was filed







❑ Collection shall be made w/in **5 years** from the date of assessment, either by:

1. Summary Proceedings
2. Judicial Proceedings

No proceeding in court without assessment for the collection shall be begun after the expiration of the 3-year period

- ❑ A proceeding in court for the collection of tax may be filed without assessment at any time within 10 years after the discovery of the falsity, fraud or omission.



# Compromise Penalty Vs. Abatement

As effect:

As to when proper:

Reduce liability

Unjust assessment

Cancel the entire  
tax liability

Reasonable doubt  
on the tax  
assessment





# **TAX REMEDIES OF THE TP**





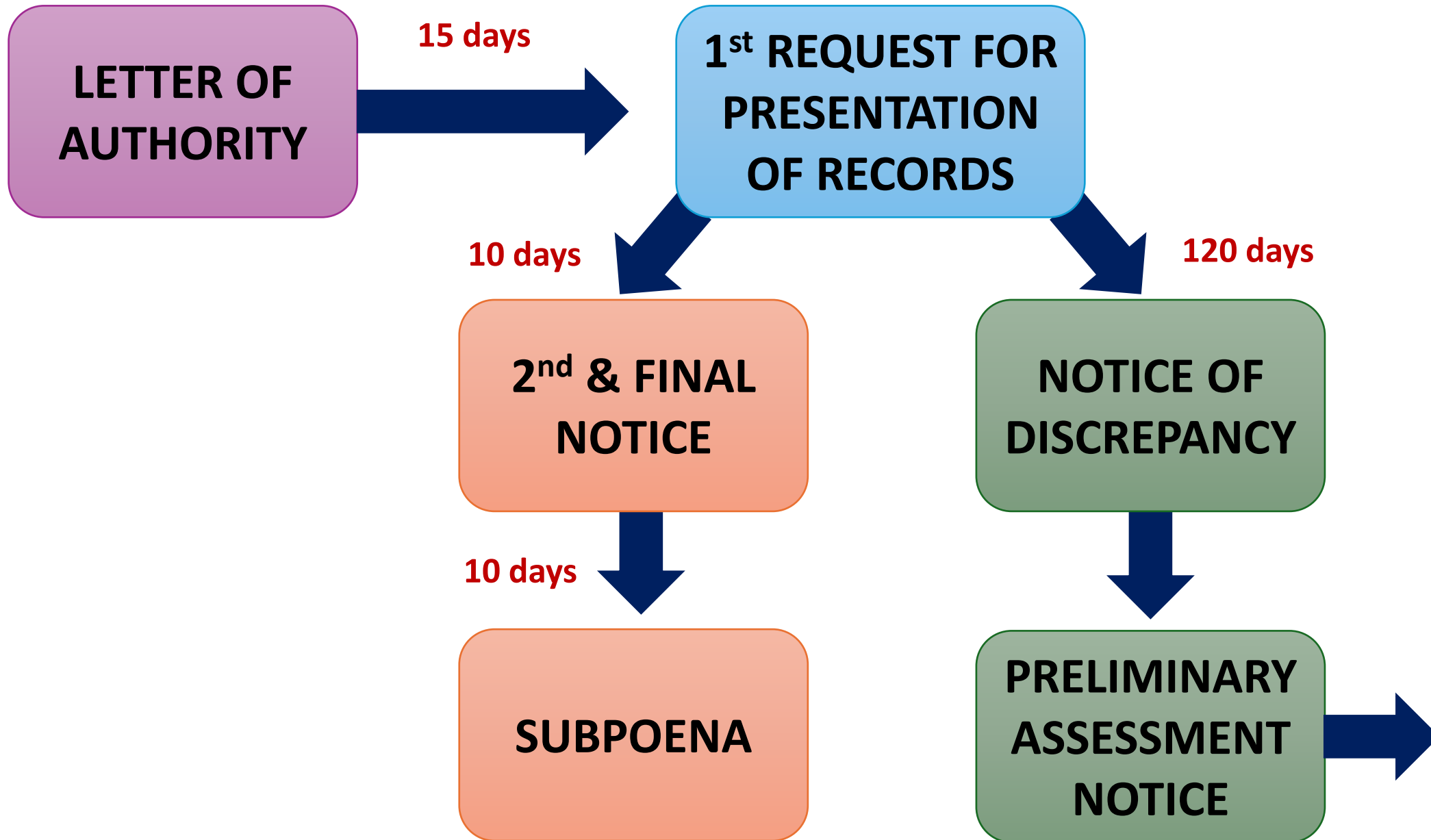
- ❑ **Assessment** is the official action of an officer authorized by law in ascertaining the amount of tax due from a TP

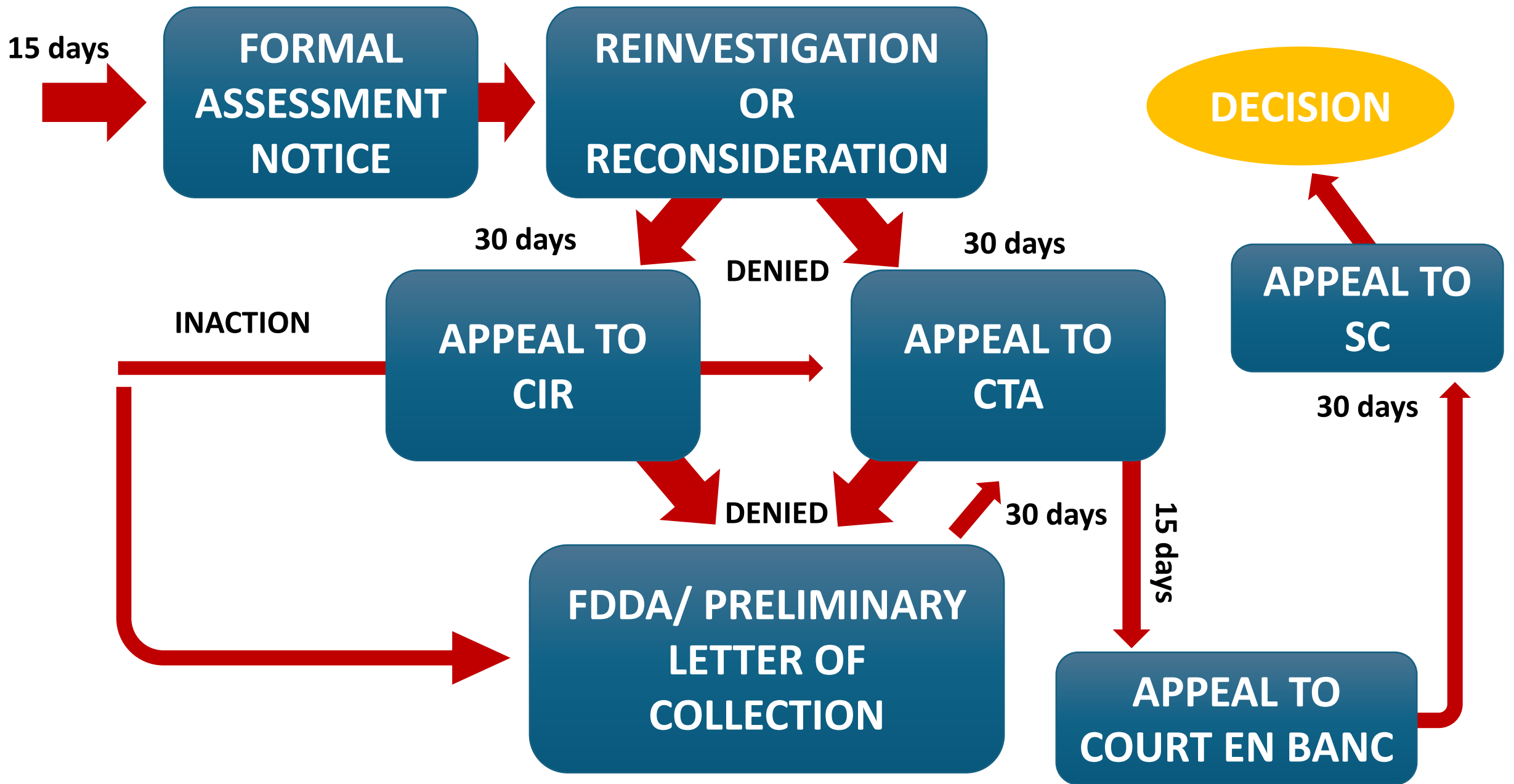


- ❑ **Assessment Notice** is a formal demand sent to the TP requiring payment w/in a specified time of the tax due **including interest & civil penalties**



**DUE PROCESS IN THE ISSUANCE OF DEFICIENCY  
TAX ASSESSMENT  
(REMEDY AGAINST AN ASSESSMENT)**







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

15 SEP 2020

\_\_\_\_\_  
Date

REVENUE REGULATIONS NO. 22-2020

**SUBJECT:** Amending Certain Sections of Revenue Regulations No. 12-1999, as Amended by Revenue Regulations No. 18-2013 and Revenue Regulations No. 7-2018, Relative to the Due Process Requirement in the issuance of a Deficiency Tax Assessment

**TO:** All Internal Revenue Officers and Others Concerned

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# NOTICE OF DISCREPANCY

- ❑ TP shall be informed through NOD
- ❑ If found to be liable for deficiency taxes in the course of an investigation conducted by BIR Officer.





□ Aims to fully afford the TP with an opportunity to present & explain his side on the discrepancies found.





❑ 5-day period to appropriately respond to the findings



❑ TP must submit all necessary docs that supports his explanation w/in 30 days after receipt of the NOD.

❑ The Discussion of Discrepancy shall in no case extend beyond 30 days from receipt of the NOD.



- If it is still found that the TP is **still liable for deficiency taxes** & does not address the discrepancy thru payment or the TP does not agree with the findings



- Issuance PAN w/in 10 days** from the conclusion of the Discussion.



Republic of the Philippines  
Department of Finance  
BUREAU OF INTERNAL REVENUE



## NOTICE OF DISCREPANCY

Date: \_\_\_\_\_

**FULL NAME OF TAXPAYER**

ADDRESS

ADDRESS

**TIN: 000-000-000-000**

Sir/Ma'am:

Please be advised that we have submitted the report of investigation on your internal tax liabilities for taxable year \_\_\_\_\_ to \_\_\_\_\_ pursuant to Letter of Authority No. \_\_\_\_\_ dated \_\_\_\_\_ to the Revenue District Office/Chief of this office.

The said report includes the details of discrepancies (**ANNEX A**) as a result of the aforestated investigation. Please take note that this is **NOT YET A DEFICIENCY TAX ASSESSMENT**.

In observance of procedural due process pursuant to Sec. 228 of the National Internal Revenue Code of 1997 (as amended by RA 8424) and Sec. 2 of Revenue Regulations No. 7-2018 dated 22 January 2018, you and/or your authorized representative are invited to a Discussion of Discrepancy at \_\_\_\_\_ **within five (5) days from the date of receipt hereof** to enable you to present and explain your side on the discrepancies noted by the investigating Revenue Officer.

You may submit at said discussion whatever documentary evidence you may have to reconcile and refute the noted discrepancies.

Your counsel/authorized representative may assist you at this discussion, or may represent you thereat, should you be unable to be present on said date. In the event that you shall be represented by your counsel or any other duly authorized representative, said counsel or representative must be so authorized in writing in accordance with the required authorization document by the BIR.



Republic of the Philippines  
Department of Finance  
**BUREAU OF INTERNAL REVENUE**



Please be advised, however, that failure on your part to appear on the scheduled date of discussion without prior notice to the Bureau, will be construed as a waiver of your right to a discussion of discrepancy and as an indication that you have no objections to the Bureau's findings at this level. Furthermore, failure on your part to reconcile and present valid documentary support against the noted discrepancies will result in the issuance of a deficiency tax assessment.

Accordingly, a Preliminary Assessment Notice (PAN) covering that aforesaid deficiency tax assessment shall immediately be sent to you.

We trust, therefore, that this matter will merit your preferential attention.

Very truly yours,

**FULL NAME & Signature**

Revenue District Officer/Chief of Investigating Office

Noted by:

\_\_\_\_\_  
Authorized Signatory

Received by:

\_\_\_\_\_  
Full name, position and signature of  
Taxpayer or Taxpayer's authorized representative

Contact details: \_\_\_\_\_  
Date of receipt: \_\_\_\_\_

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

Date: November 28, 2013

**REVENUE REGULATIONS NO. 18-2013**

**SUBJECT : Amending Certain Sections of Revenue Regulations No. 12-99  
Relative to the Due Process Requirement in the Issuance of a  
Deficiency Tax Assessment**

**TO : All Internal Revenue Officers and Others Concerned**

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# PRELIMINARY ASSESSMENT NOTICE

- ❑ It shall show in detail the facts & the law, rules & regulations, or jurisprudence on which the proposed assessment is based.





❑ TP to respond **within 15 days**  
from date of receipt of the PAN



❑ Failure to respond- **issuance of FLD/FAN** (deficiency tax liability, inclusive of the applicable penalties)



Bringing in Revenues  
for Nation-Building

REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
**BUREAU OF INTERNAL REVENUE**  
*Revenue Region No. 8A - Makati City*  
Office of the Regional Director

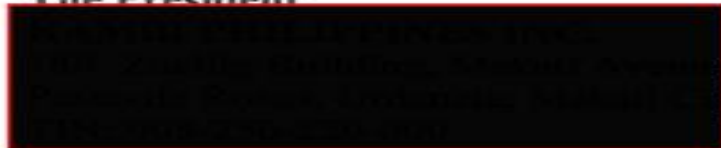


**JANUARY 21, 2025**

P/eL ~~XXXXXXXXXXXXXXX~~ 00080

**PRELIMINARY ASSESSMENT NOTICE**

The President



cor.,  
y

Sir/Madam:

Please be informed that after investigation conducted by Revenue Officer ~~XXXXXXXXXXXX~~ and Group Supervisor ~~XXXXXXXXXXXX~~ District Office No. 50 – South Makati and review of all your internal revenue taxes pursuant to **Letter of Authority No. ~~XXXXXXXXXXXX~~** dated **March 12, 2024**, there has been found due from you, deficiency **Value Added Tax, Expanded Withholding Tax and Fringe Benefit Tax**, for the calendar year **2022**, as shown hereunder:

**VALUE ADDED TAX**

Taxable receipts subject to 12% VAT per return	P	-
Output Tax Due	P	-
Less: Net creditable input tax	P	-
Less: Discrepancy per investigation		
Disallowed input taxes due to invoicing requirements (ANNEXES B & C)		(1,134,623.62)



❑ PAN shall not be required in any of the ff cases:

- i. When the finding for any deficiency tax is the **result of mathematical error** in the computation of the tax appearing on the face of the tax return filed by the TP;
- ii. When a **discrepancy** has been determined between the **tax withheld & the amount actually remitted** by the withholding agent; or






❑ PAN shall not be required in any of the ff cases:

iii. When a TP who opted to claim a refund or tax credit of excess CWT for a taxable period was determined to have carried over & automatically applied the same amount claimed against the estimated tax liab for the taxable qtr/s of the succeeding TY;





□ PAN shall not be required in any of the ff cases:

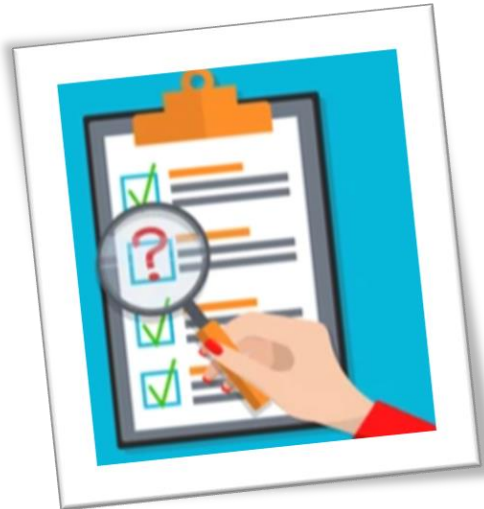
- iv. When the excise tax due on excisable articles has not been paid; or
  - v. When an article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital eqp't, machineries & spare parts, has been sold, traded/transferred to non-exempt persons.
- 

In the above-cited cases, a **FLD/FAN shall be issued outright.**



# FORMAL LETTER OF DEMAND & FINAL ASSESSMENT NOTICE

- ❑ TP may protest administratively against the FLD/FAN w/in 30 days from date of receipt.



- ❑ TP may file a written request for reconsideration or reinvestigation.





REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE  
National Office Building  
Quezon City



APR 22 2024

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**FORMAL LETTER OF DEMAND**  
**Part I**

**The President**



riguez Sr. Ave

Sir / Madam:

This has reference to your letter dated April 3, 2024, duly received by this Office on April 3, 2024, relative to our Preliminary Assessment Notice (PAN) dated March 14, 2024, and received by your company on March 19, 2024.

We hereby acknowledge your letter and shall form part of the tax docket. However, this Formal Letter of Demand (FLD) is hereby issued pursuant to Section 3.1.1 of Revenue Regulations (RR) No. 18-2013. The result of which is discussed in an item-by-item basis in the Details of Discrepancies. Other arguments were no longer discussed for lack of merit and direct relation to the findings.

In view of the foregoing, you are still liable to pay the deficiency **Income Tax, Value Added Tax, Improperly Accumulated Earnings Tax and Expanded Withholding Tax** for the taxable year ending **December 31, 2020**, as shown hereunder, to wit:

**I. INCOME TAX**

Taxable Income per AITR

P

33,307,404.00

# Request for Reconsideration



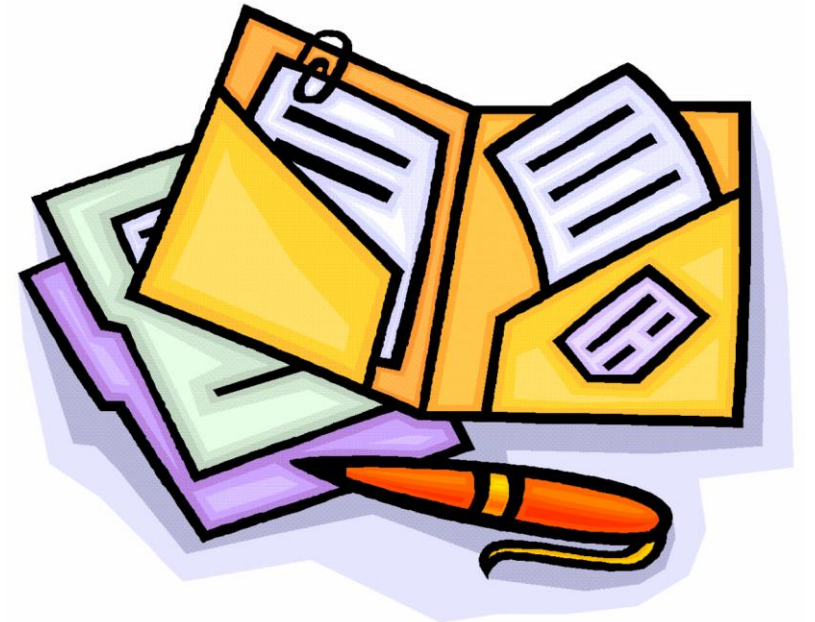
- Plea of re-evaluation of an assessment on the basis of existing records w/out need of additional evidence.
- It may involve both a question of fact or of law or both.

# Request for Reinvestigation



- ❑ Plea of re-evaluation of an assessment on the basis of **newly discovered or addt'l evidence** that a TP intends to present in the reinvestigation.
- ❑ It may also involve a question of fact or of law or both.

- ❑ For requests for reinvestigation, the TP shall **submit all relevant supporting documents** in support of protest within **60 days**.
- ❑ Otherwise, assessment shall become **final**.



❑ 60-day period is not applicable for requests for reconsideration.



# FINAL DECISION ON DISPUTED ASSESSMENT

- ❑ The decision of the CIR or his duly authorized rep shall state the (i) facts, the applicable law, rules & regulations, or jurisprudence on which such decision is based,



- ❑ Otherwise, the decision shall be void, & (ii) that the same is his **final decision**.





REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF FINANCE  
BUREAU OF INTERNAL REVENUE  
Revenue Region No. 8B – South NCR



**FINAL DECISION ON DISPUTED ASSESSMENT**

D | eLA: [REDACTED] 00000100 | 000025

13 JUN 2024



CORPORATION  
Inc.

Sir / Madam / Gentlemen:

This has reference to your letter dated September 28, 2023 relative to our Formal Letter of Demand (FLD) and Assessment Notice dated August 14, 2023, which you received on August 30, 2023, representing deficiency Value-Added Tax in the amount of P [REDACTED] 5, inclusive of statutory increments for the taxable period January 01, 2019 to June 30, 2019.

In reply thereto, your contention in your letter has been given favourable action. It is to be noted, with the consideration of the suspension of audit and extension of the period of prescription of the assessments as promulgated by the Republic Act No. 11469 otherwise known as "Bayanihan to Heal as One Act" and proclamation Nos. 929 and 922, s. of 2020 pursuant to Revenue Memorandum Circular (RMC) No. 34-2020 and No. 136-2020 and Revenue Regulation (RR) No. 11-2020, that counting of the three (3) year prescriptive period for the period to assess shall exclude the number of days covered by the period of suspension, which is a total of one hundred thirty-seven (137) days. In light of the foregoing, as discussed in the Details of Discrepancies, you still failed to refute the validity of some of our findings.

In view of the foregoing, and in accordance with Section 228 of the NIRC as implemented by Revenue Regulations (RR) No. 12-99 and further amended by RR No. 18-2013, you are still liable to pay deficiency Value Added Tax for the taxable period January 01, 2019 to June 30, 2019, as shown hereunder, to wit:

VALUE ADDED TAX  
Taxable sales/receipts per VAT return



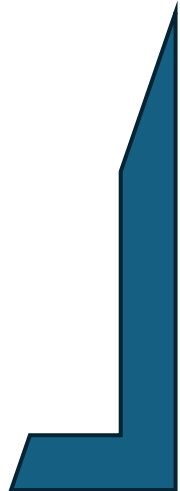
## Mode of Service




- i. Through personal service by delivering personally a copy to the party at his registered or known address or wherever he may be found.
  - In case personal service is not practicable, the notice shall be served by substituted service or by mail.



ii. Substituted service


- The notice may be left at the party's registered address, with his clerk or with a person having charge thereof.
  - If the known address is the place of residence, it can be made by leaving the copy with a person of legal age residing therein
- 



If no person is found in the party's reg or known address, the BIR officers concerned shall bring a brgy official & 2 disinterested witnesses so that they may personally observe & attest to such absence.

The notice shall then be given to said brgy official.





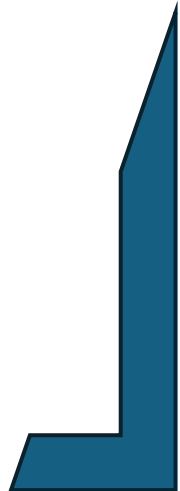
Should the party be found at his reg or known address or any other place but refuse to receive the notice, the BIR officers concerned shall bring a brgy official & 2 disinterested witnesses in the presence of the party so that they may personally observe & attest to such act of refusal.

The notice shall then be given to said brgy official.





iii. Service by mail

- Done by sending a copy of the notice by registered mail to the registered or known address of the party w/ instruction to the Postmaster to return the mail to the sender after 10 days, if undelivered
  - A copy of the notice may also be sent through reputable professional courier service.
- 

**REMEDY AGAINST AN ERRONEOUSLY OR  
ILLEGALLY PAID TAX**



- ❑ File a **formal claim for refund** with the BIR w/in **2 years** from the date of payment of tax.
-

Submit the **relevant documents** within **60 days** from filing of claim for refund







❑ File an appeal with CTA, **raising questions of facts &/or law w/in 30 days** (but within the 2-year period required for filing a claim):

1. from receipt of final unfavorable decision on the claim for refund or
2. from the lapse of 180 days

- ❑ File an appeal with the CTA en banc, **15 days** from date of receipt of adverse decision of a CTA Division
- ❑ File a verified petition for review with SC, **15 days** from the receipt of adverse decision or ruling of the CTA en banc

**15  
DAYS**

**REFUND OR CREDIT EVEN WITHOUT WRITTEN  
CLAIM & FORFEITURE OF REFUND**



- CIR, may, even without written claim, **refund or credit any tax.**
- Refund check or warrant remain unclaimed w/in 5 years, shall be forfeited **in favor of the gov't**



- TCC issued, which shall remain **unutilized after 5 years**, shall, unless revalidated, be **considered invalid**
- And shall **not be allowed** as payment for internal revenue tax liabilities of the TP

**INSTANCES THAT SUSPEND THE RUNNING OF  
THE 2-YEAR PEREMPTORY PERIOD**

- ❑ If the Commissioner made the TP asking for refund believe that he would be **credited for the overpayment**
- ❑ If there is an **agreement bet. the TP & the agent of the Commissioner** that they would wait the decision of SC





**[LETTERS FILED AGAINST THE WARRANTS OF GARNISHMENT ARE NOT PART OF THE TP'S REMEDIES UNDER NIRC; AS SUCH, THEY CANNOT EXTEND THE DECISION ALREADY ISSUED BY THE BIR ON THE ASSESSMENT BEING DISPUTED]**

*[[COUNTRY BANK, RURAL BANK OF BONGABONG, INC. VS. BIR]*

CTA EB NO. 7260



August 5, 2024

# Facts

□ Seeking to **reverse** the Resolutions of the CTA Second Division, granting respondent Motion for Early Resolution of the **Issue of Jurisdiction of the Honorable Court**, & **dismissing for lack of jurisdiction** the original "Petition for Review" filed on May 23, 2022.



# Petitioner's Arguments



- The petitioner contended that it was left in the dark as to which action of the CIR was appealable to the CTA



# Petitioner's Arguments

- ❑ In addition, the petitioner argued that the respondent's Letter dated April 04, 2022, that declared w/ finality the decision denying the lifting of the Warrants of Garnishment (WOG) is the one that is considered the CIR's appealable decision.



# Respondent's Arguments

- ❑ The respondent BIR submitted that even assuming that the protest to the FLD was filed w/in the period allowed by law, the petition must be dismissed for **it was filed out of time** before the CTA.



# Ruling

- ❑ In cases where the validity of the WOG is put in question, the 30-day period under Sec 11 of RA No. 1125 (An Act Creating The CTA), as amended shall be reckoned from the TP's receipt of the said warrant.



# Ruling

- ❑ The warrant of distraint or levy issued by the CIR constitutes a constructive & final denial of the TP's protest.
- ❑ Like a warrant of distraint or levy, a WOG under Sec 208 of NIRC, as amended, is a civil remedy given to the gov't for the collection of taxes.

[CIR vs. South Entertainment Gallery, Inc.]



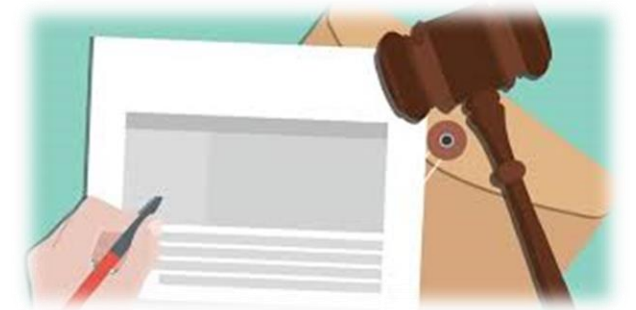


❑ In the eyes of the BIR, the assessment stage had already ended, & the collection stage began.



❑ Considering that the petitioner was **notified** of the WOG by BDO & DBP on Aug 13, 2021, & August 16, 2021, respectively,

❑ & the Petition for Review was filed with the Second Division on May 23, 2022, or only after 283 days from notice of the first WOG served to BDO, it is w/o doubt that the petition was not timely filed.





❑ The Petition was **DENIED** for **lack of merit.**

❑ The Resolutions dated Jan 31, 2023, & May 05, 2023 were **AFFIRMED.**

