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On refunds and issuance of tax credit certificates

Let's Talk Tax
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In relation to taxes and the Bureau of Internal Revenue (BIR), the words "refund" and "credit" evoke different reactions from taxpayers.

Some give fairly good feedback, but most are not pleased because of the length of time it takes the BIR to process claims for refund and applications for the issuance of tax credit certificates (TCC).

More often than not, the BIR gives last priority to refunds and issuance of TCCs. Consequently, taxpayers are forced to seek other remedies, such as filing a claim for refund/issuance of TCC with the Court of Tax Appeals (CTA) before the two-year period within which to file a claim for refund/issuance of TCC expires.

On the part of the BIR, there are instances when a taxpayer applying for a refund/issuance of TCCs immediately files a petition with the CTA after filing an administrative claim with the BIR, without first giving the BIR an opportunity to determine the veracity of the

taxpayer's claims, making the administrative filing a mere formality and intended only for the purpose of complying with the requirements for filing a case with the CTA.

It is for these reasons that the BIR issued Revenue Memorandum Circular (RMC) No. 29-09 which reiterates Section 112(C) of the 1997 Tax Code and provides that, in proper cases, the Commissioner of Internal Revenue shall grant a refund or issue a TCC within 120 days from the date of submission of complete documents. However, this presupposes that, upon audit/verification, the taxpayer must:

- a. submit the complete documents necessary to determine and/or ascertain the correctness of the return and the amount to be refunded/credited;
- b. ascertain that all books of accounts and accounting records pertaining to the claim are immediately available to the concerned revenue office for audit and verification;
- c. explain in writing or reconcile any discrepancies/findings upon audit/verification within five days from receipt of the notification from the revenue office; and
- d. signify his concurrence to the outcome of the verification, which shall be evidenced by an Agreement Form.

In the event that the above requirements are not complied with by the taxpayer, the running of the 120-day period is suspended from the date notice is given to the taxpayer. The revenue officer in charge shall then notify the taxpayer of his failure to submit all supporting documents or his failure to comply with the audit/verification requirements.

If the taxpayer is still unable to comply with all the conditions and requirements after giving three notices, the application for tax refund/issuance of TCC shall be denied.

This circular is a welcome development for both the BIR and the taxpayers. It not only provides the BIR with the opportunity to make a determination of the accuracy of the returns filed by a taxpayer and the amount claimed as refund or credit, but it also gives taxpayers some assurance that their application shall be immediately acted upon by the revenue officer assigned to the case. This is because charges of gross negligence, inefficiency and failure to observe the procedures prescribed — for which they may be suspended or dismissed — may be filed against these revenue officers before the Inspection Services of the BIR and/or the Office of the Ombudsman.

This does not mean, however, that everything will go smoothly with the processing of claims for refund or the issuance of a TCC with the release of this RMC. Taxpayers must, at the onset, make sure that all documents necessary to process the application is complete in order to expedite the job of the revenue officers. Also, taxpayers must be always on guard so that the BIR may not use the suspension of the 120-day period provided for under the law as a tactic to cause any unnecessary delay in the processing of the application for tax refund/issuance of a TCC.

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