Round table discussion / reflection on the

Chevron case

7 February 2023

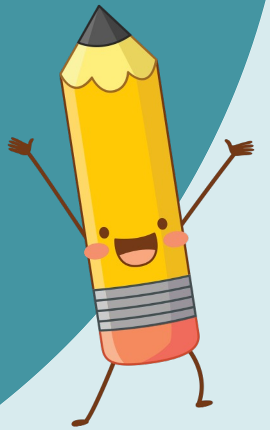
Context

Background story why we are having this session / meeting.

Case under consideration

Chevron Holdings, Inc. (Formerly Caltex Asia Limited) vs. Commissioner of Internal Revenue, G.R. No. 215159, 5 July 2022, *En Banc, J.* M. Lopez.

Opening paragraph of the Decision:



"The Court will not deny the request for a refund of unutilized input Value-Added Tax (VAT) from zero-rated sales on the basis that the taxpayer does not have 'excess' input VAT from the output VAT when the law does not require its compliance with the taxpayer to be entitled to a refund. The Court may not construe a statute that is free from doubt; neither can we impose conditions nor limitations when none is provided for."

Antecedents / Facts

- Chevron Holdings, Inc. is a Regional Operating Headquarter (ROHQ).
- For taxable year 2006, Chevron Holdings rendered services to its affiliates in the Philippines and abroad.
- The services rendered to foreign affiliates were subjected to the 0% VAT rate, while that rendered to local affiliates were subjected to the regular 12% VAT rate.
- Chevron Holdings incurred input taxes on purchases of goods and services for the four (4) quarters of 2006 concerning the said services.

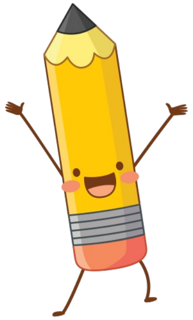
Antecedents / Facts (continuation)

- The input taxes were allocated proportionately to Chevron Holdings' VATable and zero-rated sales .

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
VAT-able sales	4,687,290.75	35,386,665.52	28,405,325.59	41,180,817.13
Zero-rated sales	308,477,292.31	237,013,773.09	271,095,515.06	459,971,366.03
Total	313,164,583.06	272,400,438.61	299,500,840.65	501,152,183.16
Zero-rated sales / Total sales	98.50%	87.01%	90.52%	91.78%
Multiply by input tax	5,473,352.33	6,843,948.53	7,144,030.57	20,690,791.66
Input tax from zero-rated sales	5,391,252.04	5,954,919.62	6,466,776.47	18,990,008.50

Antecedents / Facts (continuation)

- The input taxes attributable to zero-rated sales were not credited against output taxes because of the substantial amounts of input taxes carried forward from the previous quarters.
- Chevron Holdings declared in its Amended Quarterly VAT Return for the 4th quarter of 2005 the amount of ₱55,784,357.71 as excess input tax.
- 28 March 2008 – Chevron Holdings filed an administrative claim for refund or issuance of tax credit certificate on the unutilized input VAT attributable to the sale of services to its foreign affiliates for the four (4) quarters of 2006.



Antecedents / Facts (continuation)

- 24 April 2008 – Chevron Holdings filed a *Petition for Review* before the CTA Division (CTA Case No. 7776) for the refund or credit of excess input VAT for the 1^{st} quarter of 2006 in the amount of ₱5,391,252.04 .
- 23 July 2008 – Chevron filed a *Petition for Review* before the CTA Division (CTA Case No. 7813) for the refund or credit of excess input VAT for the 2^{nd} to 4^{th} quarters of 2006 in the amount of ₱31,411,704.68 .
- The said CTA Cases were eventually consolidated .
- 6 June 2012 – The CTA Division denied both *Petitions* for being prematurely filed.

Antecedents / Facts (continuation)

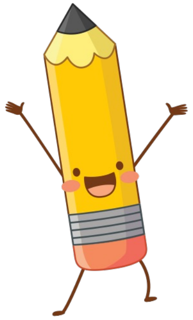
- Chevron Holding's *Motion for Reconsideration* was denied by the CTA Division, and thus, the case was elevated to the CTA *En Banc* (CTA EB No. 940).
- <u>6 May 2014</u> – The CTA *En Banc* rendered its Decision, partially granting Chevron Holdings' *Petition for Review*, and ruled as follows:
  - The judicial claims were timely filed. Chevron Holdings benefited from the ruling in *Commissioner of Internal Revenue vs. San Roque Power Corporation* [703 Phil. 310 (2013)], since the administrative and judicial claims were all filed during the period of validity of BIR Ruling No. DA-189-03 (*i.e.*, 10 December 2003 to 6 October 2010).

Antecedents / Facts (continuation)

- *(continuation)* 6 May 2014 – The CTA *En Banc* rendered its Decision, partially granting Chevron Holdings' *Petition for Review*, and ruling as follows :
  - Out of the ₱1,276,557,946.49 sales reported, only ₱155,654,748.22 qualified for VAT zero-rating of sales of services to nonresident foreign affiliate clients under Section 108(B)(2) of the NIRC of 1997.
  - Only ₱9,081,815.00 was valid input VAT. The amount of ₱774,415.38 was disallowed for having no supporting VAT invoices or official receipts, and the amount of ₱25,883,884.54, for failure to comply with the invoicing requirements under the Tax Code.

Antecedents / Facts (continuation)

- *(continuation)* May 2014 – The CTA *En Banc* rendered its Decision, partially granting Chevron Holdings' Petition for Review, and ruling as follows :
  - ➢ There was no excess input VAT that may be the subject of a claim for refund or tax credit for the 2^{nd}, 3^{rd}, and 4^{th} quarters of 2006.
  - ➢ The excess input tax of ₱807,609.07 for the 1^{st} quarter of 2006 shall be allocated to Chevron Holdings' valid zero-rated sales. Thus, **only ₱15,085.24 shall be refundable**.



Antecedents / Facts (continuation)

- *(continuation)* 6 May 2014 – The CTA *En Banc* rendered its Decision, partially granting Chevron Holdings' Petition for Review, and ruling as follows :
  - ➢ The input tax carry-over of ₱56,564,096.77 reported in the Quarterly VAT Return for the 1st quarter cannot be validly applied against the output tax for 2006 because Chevron Holdings failed to present VAT invoices or receipts to prove its existence.
- Chevron Holdings then sought reconsideration of the said Decision.

Antecedents / Facts (continuation)

- 28 October 2014 – The CTA *En Banc* issued an Amended Decision:
  - reiterating that, on its own, the Certification of Non-Registration of Corporation/Partnership issued by the SEC is insufficient to prove that the foreign affiliate was outside the Philippines when the services were rendered.
  - observing that Chevron Holdings admitted that the Certificate of Inward Remittance issued by JP Morgan did not reflect the payment of ₱10,025,869.35, hence, was disallowed as a zero-rated sale.

Antecedents / Facts (continuation)

- *(continuation)* 28 October 2014 – The CTA *En Banc* issued an Amended Decision :
  - reconsidering some input taxes that were previously disallowed, hence, the refundable amount was increased to ₱47,409.24, representing the unutilized excess input VAT for the 1st quarter of 2006 attributable to the zero-rated sales for the same period.

- Unsatisfied, Chevron Holdings filed its *Petition for Review on Certiorari* before the Supreme Court under Rule 45 of the Rules of Court, assailing the CTA *En Banc*'s Decision dated May 6, 2014, and Amended Decision dated October 28, 2014, in CTA EB No. 940.

Issues as summarized by the Supreme Court

1) Whether the sales rendered to Chevron Holdings' non-resident foreign affiliates qualify for VAT zero-rating under Section 108(B)(2) of the Tax Code;
2) Whether Chevron Holdings is required to substantiate its excess input tax carried-over from the previous quarters in the amount of ₱55,784,357.71 to be entitled to refund or credit of unutilized input taxes arising from zero-rated sales from January 1 to December 31, 2006; and
3) Whether the CTA *En Banc* properly charged against Chevron Holdings' output tax liabilities the validated input taxes, and only when there existed excess input taxes that it allows the refund.

<u>Ruling of the Supreme Court</u>:

Chevron Holdings' *Petition* is partly meritorious.

Section 112(A), Tax Code

Under the said provision, the taxpayer may claim for refund or issuance of tax credit certificate (TCC) of unutilized input VAT attributable to zero-rated sales subject to the following conditions:

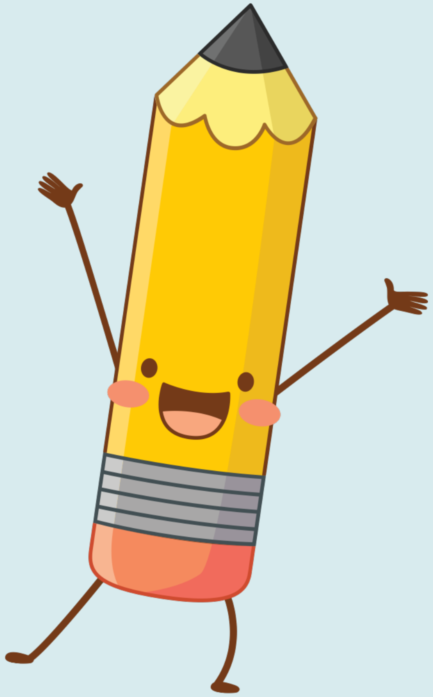
1) The taxpayer is VAT-registered;
2) The taxpayer is engaged in zero-rated or effectively zero-rated sales;
3) The claim must be filed within two (2) years after the close of the taxable quarter when the sales were made; and
4) The creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

The dispute hinges on the 2nd and 4th conditions, to wit:

2) The taxpayer is engaged in zero-rated or effectively zero-rated sales;

4) The creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.

Resolution of the 1st issue



1st issue:

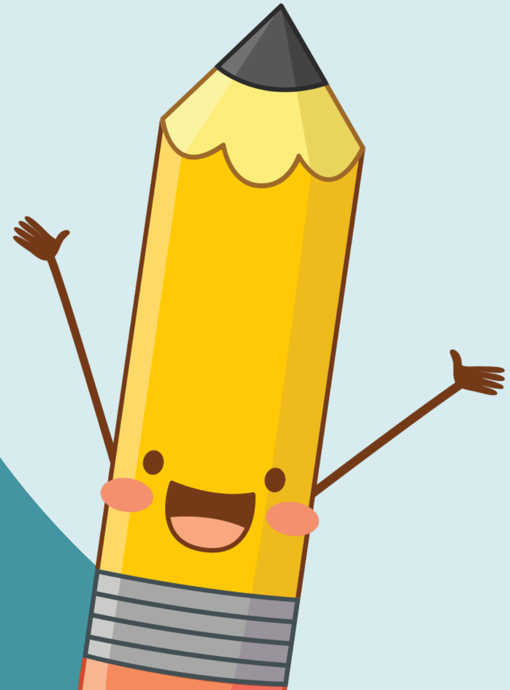
Whether the sales rendered to Chevron Holdings’ non-resident foreign affiliates qualify for VAT zero-rating under Section 108(B)(2) of the Tax Code.

The Supreme Court agreed with the findings of the CTA *En Banc*.

To qualify for VAT zero-rating, Section 108(B)(2) requires the concurrence of four (4) conditions or requisites, to wit:

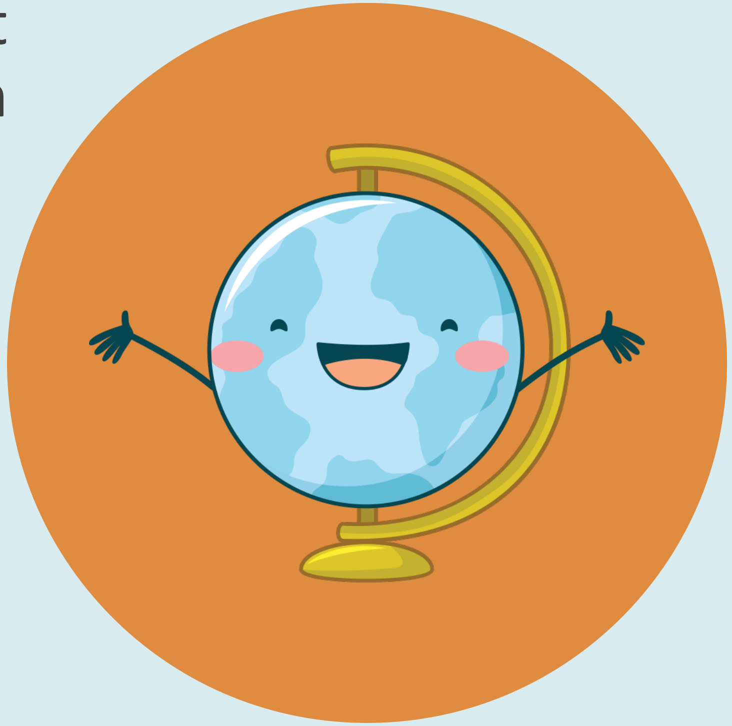
1) The services rendered should be other than *"processing, manufacturing or repacking of goods"*;
2) The services are performed in the Philippines;
3) The service-recipient is (a) a person engaged in business conducted outside the Philippines, or (b) a non-resident person not engaged in a business which is outside the Philippines when the services are performed; and
4) The services are paid for in acceptable foreign currency inwardly remitted and accounted for in conformity with BSP rules and regulations.

In this case, the 1st and 2nd requisites were undisputed.



Anent the 3rd requisite, the High Court relied on the case of *Commissioner of Internal Revenue vs. Deutsche Knowledge Services Pte. Ltd.* (G.R. No. 234445, 15 July 2020), wherein it was held that for sales to a non-resident foreign corporation to qualify for zero-rating, the following must be proved:

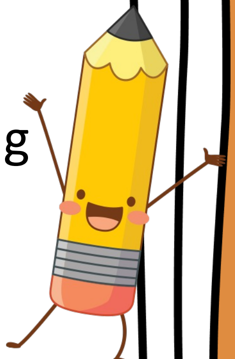
> "(1) that their client was established under the laws of a country, not the Philippines or, simply, is not a domestic corporation; and (2) that it is not engaged in trade or business in the Philippines. To be sure, there must be sufficient proof of **both** of these components: showing not only that the clients are foreign corporations, but also are not doing business in the Philippines."

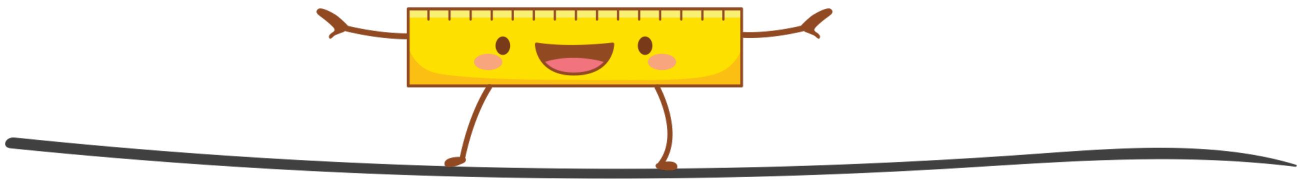


The Supreme Court said:

Therefore, the taxpayer-claimant must present, at the very least, **both** the SEC Certificates of Non-Registration – to prove that the affiliate is foreign; **and** the Articles or Certificates of Foreign Incorporation, printed screenshots of US SEC website showing the state/province/country where the entity was organized, or any similar document – to prove the fact of not engaging in trade or business in the Philippines at the time the sales are rendered.[43]

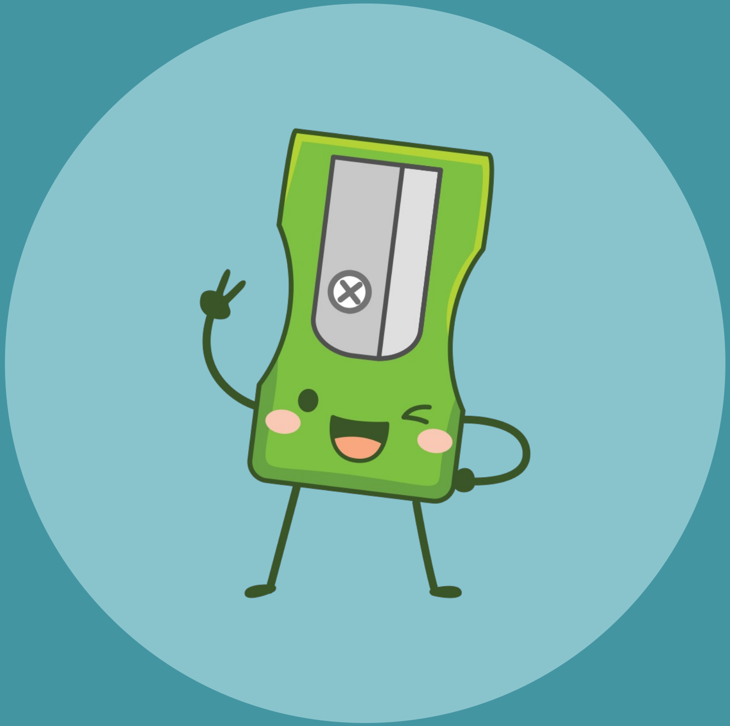
It then identified the foreign clients of Chevron Holdings which fulfilled the foregoing requirements/documents, and expressed its agreement with the observation of the CTA *En Banc* relative thereto.





Anent the 4th condition to qualify for VAT zero-rating under Section 108(B)(2), the Supreme Court invoked the case of *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue* [550 Phil. 751 (2007)], wherein it was held that the certification of inward remittances proves the fact of payment in acceptable foreign currency and accounted for under the rules and regulations of the BSP.   In view thereof, the Supreme Court affirmed that Chevron Holdings failed to substantiate the inward remittance of the proceeds of ₱10,025,869.35 and disallowed the same as a zero-rated sale.

Non-compliance with the invoicing requirements



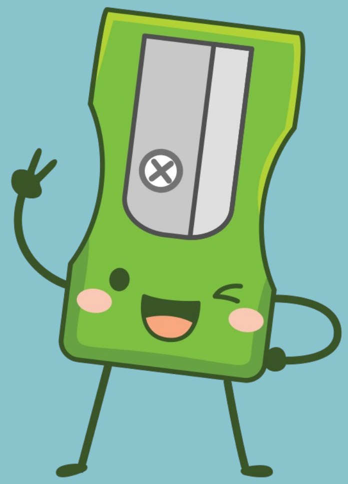
While not one of the issues as summarized by the Supreme Court, the latter addressed the issue of whether the CTA *En Banc* erred in disallowing the amount of ₱24,598,395.58 as input tax, considering that the same issue was raised in Chevron Holdings' Petition for Review on Certiorari.

To recall, the said amount of input taxes were not shown as a separate item in the invoice or official receipts.

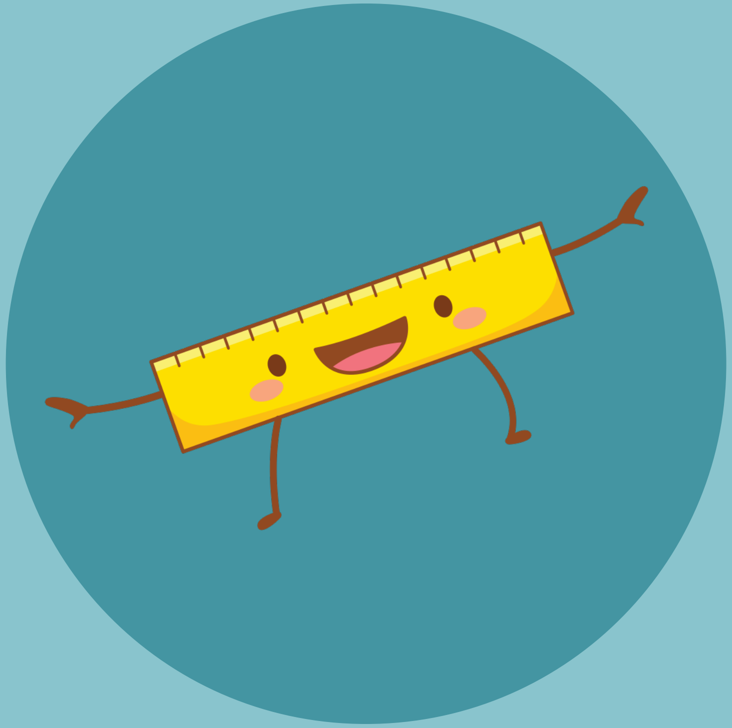
Non-compliance with the invoicing requirements *(continuation)*

The High Court agreed with the CTA *En Banc*, and ruled that Section 4.113-1 of RR No. 16-2005, in relation to Section 113(B)(2) of the Tax Code, requires the VAT to be separately indicated in the invoice or official receipt.

Failure to comply with the invoicing requirements is sufficient ground to deny the claim for refund or tax credit. The reason for this is simple – only a VAT invoice or official receipt can give rise to input tax; without input tax, there is nothing to refund. Therefore, considering that the input taxes in the amount of ₱24,598,395.58 were not shown as a separate item in the invoice or official receipts, these cannot be considered valid input taxes that may be refunded or credited in favor of Chevron Holdings.



Resolution of the 2nd and 3rd issues



2nd issue:

Whether Chevron Holdings is required to substantiate its excess input tax carried-over from the previous quarters in the amount of ₱55,784,357.71 to be entitled to refund or credit of unutilized input taxes arising from zero-rated sales from January 1 to December 31, 2006.

3rd issue:

Whether the CTA *En Banc* properly charged against Chevron Holdings’ output tax liabilities the validated input taxes, and only when there existed excess input taxes that it allows the refund.

Requirements for refund entitlement

Under Section 112(A), to be refunded or issued a TCC of unutilized input VAT attributable to zero-rated sales, the following must be complied with, to wit:

1) The input tax is a creditable input tax due or paid;
2) The input tax is attributable to the zero-rated sales;
3) The input tax is not transitional;
4) **The input tax was not applied against the output tax**; and
5) In case the taxpayer is engaged in mixed transactions, *i.e.*, VAT-able, exempt, and zero-rated sales, and the input taxes cannot be directly and entirely attributable to any of these transactions, only the input taxes proportionately allocated to zero-rated sales based on sales volume may be refunded or issued a TCC.

N.B.:

The 1st , 2nd , 3rd, and 5th requisites have been established.

The dispute lies with the 4th requirement:

> **“The input tax was *not* applied against the output tax”.**

“It seemed that the tax court required Chevron Holdings to substantiate its prior quarters’ excess input taxes so that there would be sufficient amount to cover its output tax liability, and, only after the output tax had been paid or “covered” that the CTA allowed a refund.

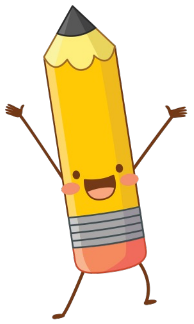
The Court cannot adhere to this view.”

Philippine VAT system – A brief review

- The VAT was introduced to the Philippine taxation system in 1987 through Executive Order No. 273 to simplify tax administration and make the tax system more equitable.
- It is the end-user of consumer goods or services that ultimately shoulders the tax because the liability is passed on to them by the providers of these goods or services.
- The end-users, in turn, may deduct their VAT liability (or input tax) from the VAT payments they receive from the final consumers (or output VAT).

Philippine VAT system – A brief review (continuation)

- One entity's output tax is another person's input tax.
- This mechanism allows taxpayers to offset the tax they have paid on their purchases of goods and services against the tax they charge on their sales of goods and services.
- The input-output credit system is consistent with the nature of VAT as a tax levied only on the value-added, and to avoid the so-called "tax on tax" or a cascading effect.
- Simply put, no tax is imposed on goods or services previously taxed in the chain.



Philippine VAT system – A brief review (continuation)

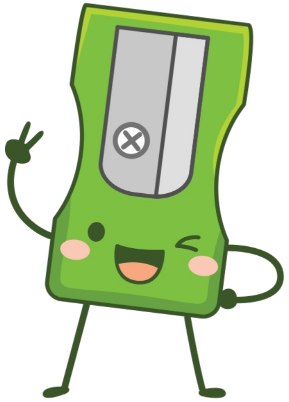
- The seller-taxpayer pays to the government only the “excess” of the output VAT from the input VAT or the tax on the value that he adds to the goods and services that he is selling.
- If the taxpayer had more creditable input taxes than output taxes in a given period, the excess shall be carried forward to the succeeding periods and applied its future output VAT.
- The taxpayer can charge its input tax only against it output tax.

Philippine VAT system – A brief review (continuation)

- The taxpayer cannot ask for a refund of or credit against its other internal revenue tax liabilities the “excess” input tax because the tax is not an excessively collected tax under Section 229 of the Tax Code.
- Even if the “excess” input tax is in fact “excessively” collected, the person who can file the judicial claim for refund is the person legally liable to pay the input tax, not the person to whom the tax was passed on as part of the purchase price.

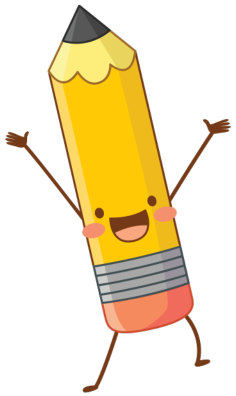
Philippine VAT system – A brief review (continuation)

- The taxpayer will be entitled to the refund or tax credit of the “excess” and unused input tax only when its VAT registration is cancelled.



“This rule, however, is not absolute.”

This finding is anchored on Sections 110(B) and 112(A) of the Tax Code.



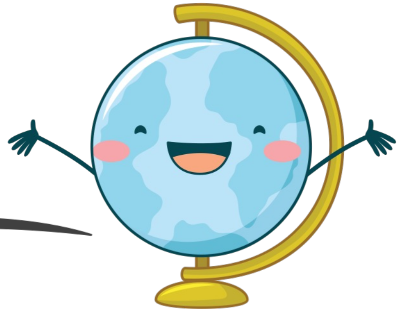
Section. 110. Tax Credits. — x x x

(B) Excess Output or Input Tax. — If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters: Provided, however, That **any input tax attributable to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.**[66] (Emphasis supplied.)

Section 112. Refunds or Tax Credits of Input Tax. –

(A) Zero-Rated or Effectively Zero-Rated Sales. – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, **apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales**, except transitional input tax, **to the extent that such input tax has not been applied against output tax**: x x x. (Emphasis supplied.)

Ruling

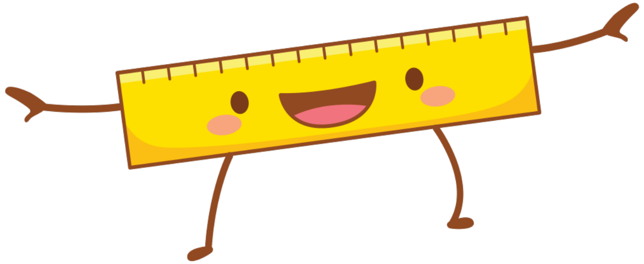


- The input tax attributable to zero-rated sales may, **at the option of the VAT-registered taxpayer**, be: (1) charged against output tax from regular 12% VAT-able sales, and any unutilized or "excess" input tax may be claimed for refund or the issuance of TCC; **or** (2) claimed for refund or tax credit in its entirety.
- The remedies of charging the input tax against the output tax and applying for refund or tax credit are **alternative and cumulative**.
- The option is vested with the taxpayer-claimant.

Ruling (continuation)

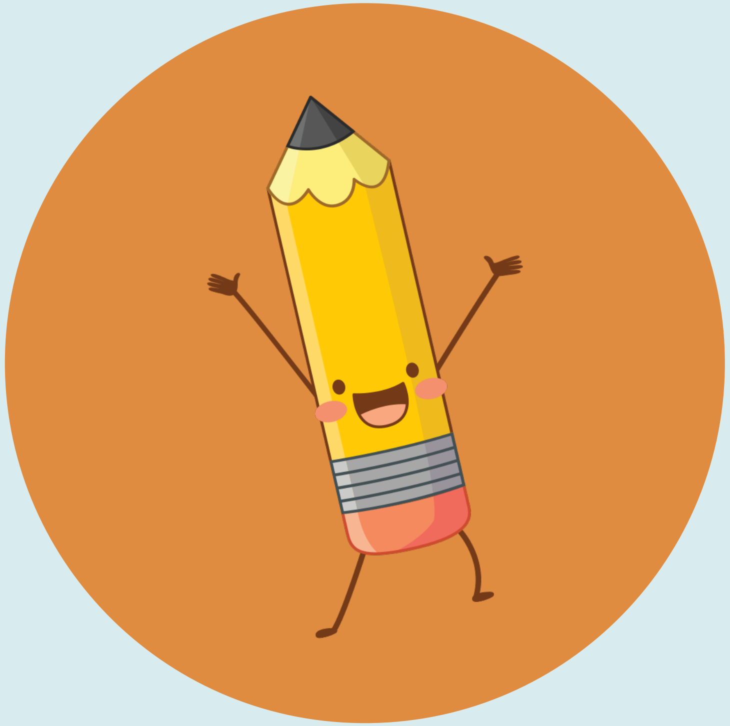
- The CTA, and even the Court, **may *not*, on its own**, deduct the input tax attributable to zero-rated sales from the output tax derived from the regular 12% VAT-able sales amount for refund.
- The courts ***cannot*** condition the refund of input taxes allocable to zero-rated sales on the existence of "excess" creditable input taxes, which includes the input taxes carried over from the previous periods, from the output taxes. These procedures find no basis in law and jurisprudence.

“We explain.”



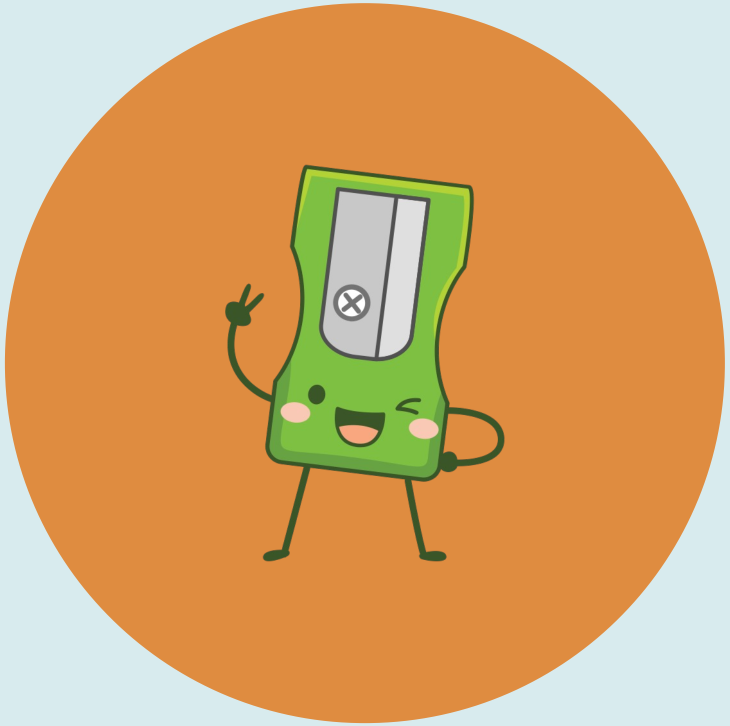
Reasons for the Court's ruling:

1) There is nothing in the law and rules that mandate the taxpayer to deduct the input tax attributable to zero-rated sales from the output tax from the regular 12% VAT-able sales first, and only the "excess" may be refunded or issued a TCC.
2) There is no legislative intent to charge input tax attributable to zero-rated sales against the output tax as a preliminary step to the refund or issuance of a TCC.



Reasons for the Court’s ruling: *(continuation)*

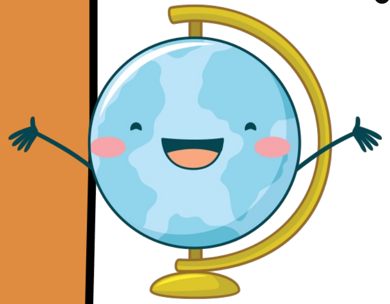
3) To call the refundable input tax in Section 110(B), in relation to Section 112(A), “excess” input tax is a misnomer.
4) That the taxpayer failed to prove that it had sufficient creditable input taxes to cover or “pay” its output tax liability in a given period, hence, there is no refundable “excess” input tax, is an issue distinct, separate, and independent from a claim for refund or issuance of TCC of unutilized input VAT attributable to zero-rated sales.



Reason #1 – No legal mandate

- Section 112(A) merely requires that the input tax claimed for refund or issuance of TCC "has not been applied against [the] output tax[.]"
- Section 4.112-1(a) of RR 16-2005 states that "[t]he input tax that may be subject of the claim shall exclude the portion of input tax that has been applied against the output tax."
- The taxpayer only needs to prove ***non-application or non-charging of the input VAT subject of the claim***.

Reason #1 – No legal mandate *(continuation)*

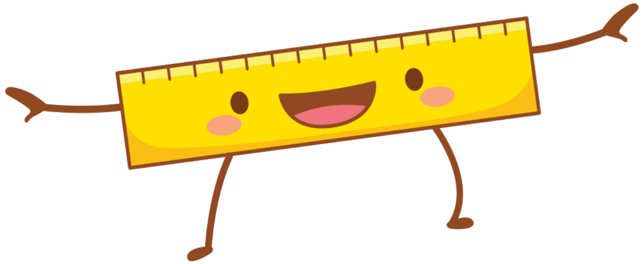


- Requiring taxpayers to prove that they did not charge the input tax claimed for refund against the output tax is **one thing**; requiring them to prove that they have "excess" input tax after offsetting it from output tax is **another**. The former is essential to refund entitlement under Section 112(A); the latter is not.

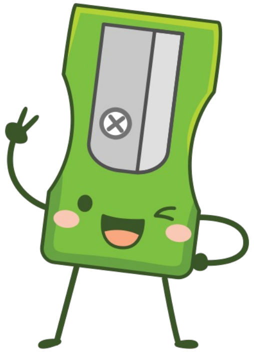
REASON: A taxpayer who enjoyed a lower (or zero) output tax payable because it deducted the input tax from zero-rated sales from output tax cannot benefit twice by applying for the refund or tax credit of the same input tax used to reduce its output tax liability. Proof of non-charging the input tax subject to the refund or credit against the output tax is to avert double recovery.

Reason #1 – No legal mandate *(continuation)*

- Before the input tax from zero-rated sales may even form part of the total allowable or creditable input taxes to be charged against the output taxes and undergo the computation of “excess output or input tax” in Section 110(B), it may already be removed from the formula once the taxpayer opted to claim the entire amount for refund. [cf: Section 4.110-5, RR 16-2005)



Reason #1 – No legal mandate *(continuation)*



- The crediting of input taxes, including input tax attributable to zero-rated sales, from the output tax should be **discretionary to the taxpayer** as it is the taxpayer who is more interested in reducing its output tax payable.
- To require entities engaged in zero-rated transactions to charge their input tax from zero-rated sales against their output VAT from regular twelve percent (12%) VAT-able sales would defeat the very object of the tax measure, which is to generate more income for the government.

Reason #2 – No legislative intent

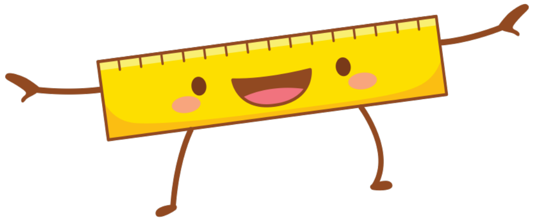
- Congress referred to “any input tax” in the proviso of Section 110(B), which could mean one, some, or all input tax from zero-rated sales.
- Had the legislature intended charging of the input tax attributable to zero-rated sales against the output tax as a preliminary step to the refund or issuance of a TCC, it would have used the phrase “excess input tax” in the provision.

Reason #2 – No legislative intent *(continuation)*

- The lawmakers had contemplated the input tax attributable to zero-rated sales as an amount that will be refunded or credited and not offset against the output tax.

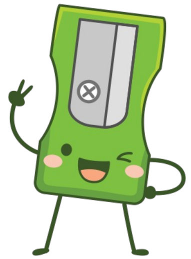
cf:

Congressional deliberations relative to the passage of RA 7716 and RA 9337.



Reason #2 – No legislative intent *(continuation)*

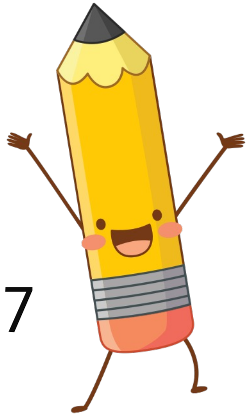
- If the Congress intended the crediting of input tax against the output tax as a condition precedent to the refund or issuance of a TCC, they could have stressed this during the deliberations. They did not.
- Instead, it was clarified (through Senator Recto) that when the taxpayer is engaged in *both* regular and zero-rated transactions, as in Chevron Holdings' case, the ratable portion allocable to zero-rated sales is **"immediately refundable"** or creditable.



Reason #3 – A misnomer

- To call the refundable input tax in Section 110(B), in relation to Section 112(A), “excess” input tax is a misnomer since what is being applied for a refund or tax credit is the **unutilized or unused input VAT** from zero-rated sales.
- As a matter of fact, there is no “excess” input tax attributable to zero-rated sales as there is no related output tax from which the input tax may be charged against.

Reason #3 – A misnomer *(continuation)*



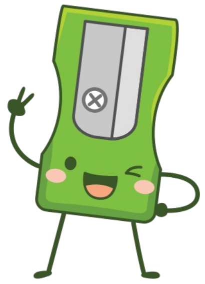
- The implication made in *Commissioner of Internal Revenue vs. Seagate Technology (Philippines)* [491 Phil. 317 (2005)] that only the **excess** input tax allocable to zero-rated sales against the output tax may be refunded or issued a TCC is merely an *obiter dictum.*
- *Atlas Consolidated Mining and Development Corp. vs. Commissioner of Internal Revenue* [655 Phil. 499 (2011)] is more apt, wherein the High Court affirmed the CTA's denial of the taxpayer's application for a refund on the ground that **it failed to prove that the input tax subject of the refund was *<u>not applied</u>* against any of its output tax liability.**

Reason #3 – A misnomer *(continuation)*

- The Supreme Court then pointed to the independent auditor's Report which showed that the amount subject to the refund, *i.e.*, ₱36,802,956.72, was not applied against Chevron Holdings' output tax liabilities.
- As in ordinary civil cases, a claim for refund or tax credit necessitates only the preponderance-of-evidence threshold. Chevron Holdings proved its entitlement by preponderance of evidence.

Reason #4 – A distinct, (etc.) issue

- That the taxpayer failed to prove that it had sufficient creditable input taxes to cover or "pay" its output tax liability in a given period, hence, there is **no <u>refundable</u>** "excess" input tax, which is an issue distinct, separate, and independent from a claim for refund or issuance of a TCC of **unutilized** input VAT attributable to zero-rated sales.

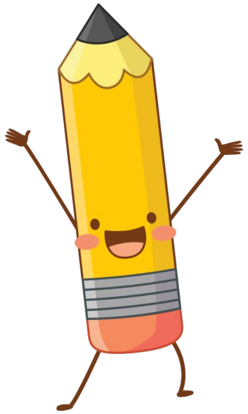


Reason #4 – A distinct, (etc.) issue *(continuation)*

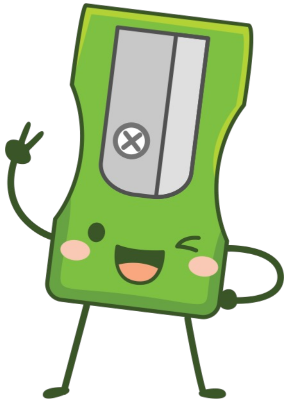
- For one, the taxpayer-claimant is not asking to refund the “excess” creditable input taxes from the output tax. To be sure, the “excess” input tax may only be carried over to the succeeding periods and cannot be refunded.
- But, on the other hand, **the taxpayer is asking to refund the unutilized or unused input tax from zero-rated sales.**

Reason #4 – A distinct, (etc.) issue *(continuation)*

- Next, the substantiation of input taxes that can be credited against the output tax is an issue relevant to the assessment for potential deficiency output VAT liability.
- In turn, it is not for the CTA and the Court to determine and rule in a judicial claim for refund under Section 112(A) that the taxpayer had insufficient or unsubstantiated input taxes to cover its output tax liability.
- This is for the BIR to determine in an administrative proceeding for assessment of deficiency taxes.



Reason #4 – A distinct, (etc.) issue *(continuation)*

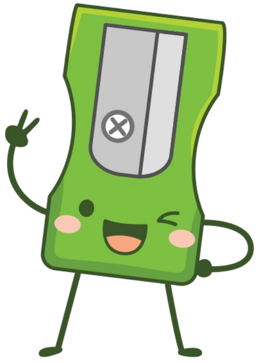


- It is true, in several cases, the Court has ruled that it will not grant a refund if the taxpayer has pending tax liability to the government because "[t]o award the refund despite the existence of deficiency assessment is an absurdity and a polarity in conceptual effects" and that "to grant the refund without determination of the proper assessment and the tax due would inevitably result in a multiplicity of proceedings or suits."

Reason #4 – A distinct, (etc.) issue *(continuation)*

- But in these cases, the taxpayer's liability for deficiency taxes is related to and intertwined with the resolution of the claim for refund.
- Such a situation is not present here. The records do not show that Chevron Holdings is delinquent for output VAT or that it is being assessed for deficiency output tax in the 1^{st}, 2^{nd}, 3^{rd}, and 4^{th} quarters of 2006.

Concluding statements



- All told, it was erroneous for the CTA to charge the validated and substantiated input taxes against Chevron Holdings' output taxes first and use the resultant amount as the basis for computing the allowable amount for refund.
- The CTA also erred in requiring Chevron Holdings to substantiate its excess input tax carried over from the previous quarter as it is not a requirement for entitlement to a refund of unused or unutilized input VAT from zero-rated sales.

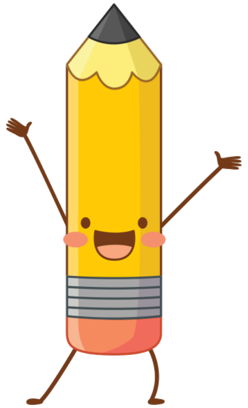
Concluding statements *(continuation)*

- Although the burden of proof to establish entitlement to a refund is on the taxpayer-claimant, the Court has consistently held that once the minimum statutory requirements have been complied with, the claimant should be considered to have successfully discharged their burden to prove its entitlement to the refund.

Concluding statements *(continuation)*

- After the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing part, *i.e.*, the BIR, to disprove such claim.
- Otherwise, we would unduly burden the taxpayer-claimant with additional requirements which have no statutory nor jurisprudential basis.

Concluding statements *(continuation)*



- In the present case, Chevron Holdings sufficiently proved compliance with all the requisites for entitlement to a refund or credit of unutilized input tax allocable to zero-rated sales under Section 112(A).
- Claims for tax refund, like tax exemptions, are construed *strictissimi juris* against the taxpayer. However, when the claim for refund has a clear legal basis and is sufficiently supported by evidence, as in the present case, then the Court shall not hesitate to grant the refund.

End of presentation.

Thank you for your attention.