



Tax in a Dot Hot and fresh!

Dear Valued Clients and Friends,

In the Court of Tax Appeals (CTA) decision, Case No. 8382 promulgated last June 3, 2014, the CTA has ruled that condominium dues are not subject to expanded withholding tax (EWT).

Petitioner Officemetro Philippines Inc. (formerly Regus Centres, Inc.), a duly organized domestic corporation which leases out office spaces, sought to reverse and set aside the Final Decision on Disputed Assessment (FDDA) dated October 24, 2011 and the accompanying Amended Assessment Notices issued by the respondent Commissioner of Internal Revenue (CIR), finding petitioner liable for deficiency EWT, final withholding of value-added tax (VAT) and final withholding (FWT) for the year 2005.

Among other matters, the petitioner asserts that condominium dues billed to the company should be excluded from the rental amount subject to EWT since such charges do not form part of the taxable income of a condominium corporation.

The CTA agreed with the petitioner. The Court noted that the BIR itself, in its various rulings^{*}, maintained that association/condominium dues, membership fees and other assessment charges collected from the members charges collected from the members, which are merely held in trust and which are to be used solely for administrative expenses in implementing their purposes to protect and safeguard the welfare of the owners, lessees and occupants, provide utilities and amenities for their members and from which the corporation could not realize any gain or profit as a result of their receipt thereof, must not be included in said corporation's gross income. This means that the same are not subject to income tax and to withholding tax.

^{*} BIR Ruling [DA-(C-239) 612-09] dated October 19, 2009; BIR Ruling No. [DA-(C-182) 468-09] dated August 18, 2009; BIR Ruling [DA-(C-162) 427-09] dated July 31, 2009; BIR Ruling No. [DA-(C-032) 137-09] dated March 5, 2009; BIR Ruling No. [DA-(C-016) 079-08] dated July 28, 2008; BIR Ruling No. 018-05 dated September 16, 2005; BIR Ruling [DA-304-04] dated June 2, 2004.

<https://docs.google.com/viewer?url=http://cta.judiciary.gov.ph/home/download/19d026fcd55aa0896908a55ecedb7370>

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