

LAST-MINUTE TIPS

ni Atty. G



TAXATION

1

TAX REMEDIES (TAXPAYER)

Recovery of Tax Erroneously or Illegally Collected
Sec. 204, 229 of NIRC, as amended by EOPT Act

❑ Prescriptive period

- 2 years after the payment of tax or penalty, the taxpayer must file a claim for credit or refund with the CIR (administrative claim);
- Appeal to the CTA (judicial claim) if the CIR denies or fails to act within **180 days** from submission of complete documents (30 days);
- The 2-year limit no longer applies to the judicial claim (cf. rule before EOPT Act);
- EOPT Act took effect on 22 January 2024.

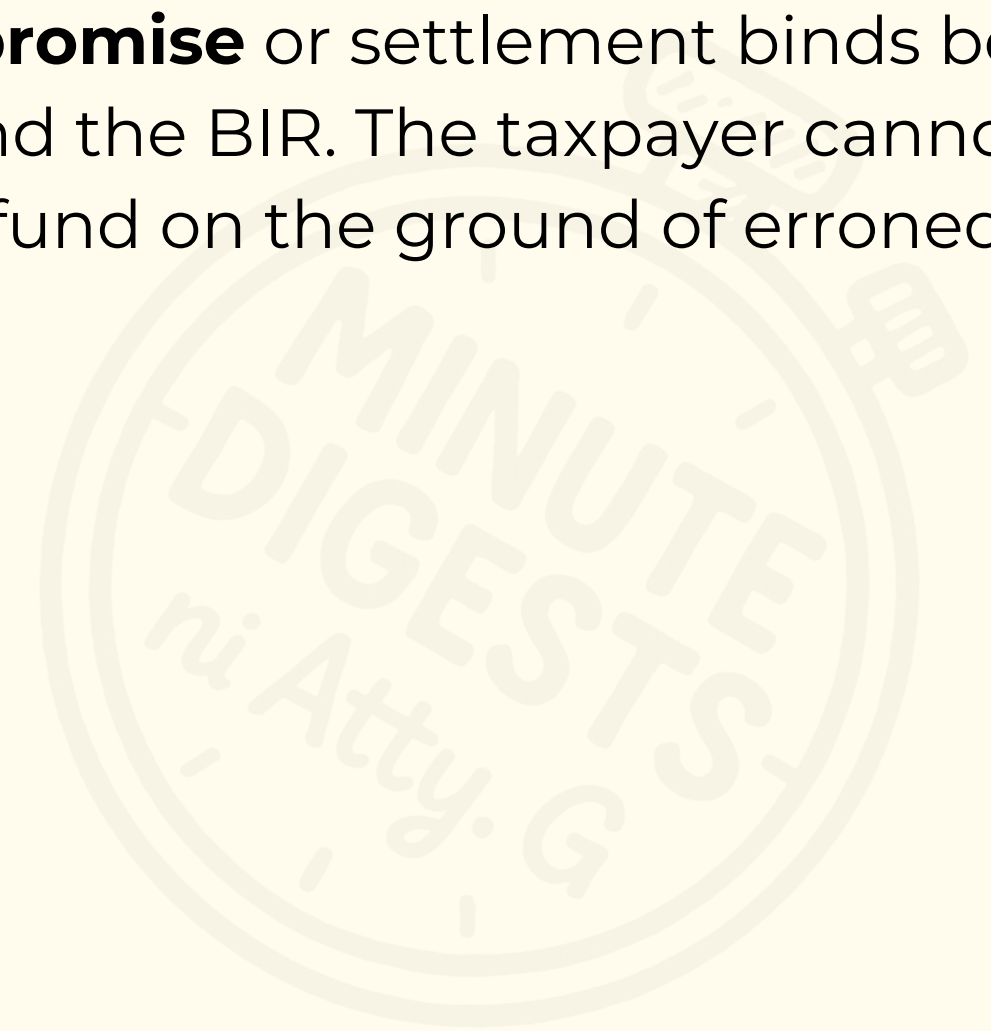
❑ cf. refund of excess input VAT (Sec. 112).

2

TAX REMEDIES (TAXPAYER)

Compromise and Abatement of Taxes

Informal compromise or settlement binds both the taxpayer and the BIR. The taxpayer cannot later claim a refund on the ground of erroneous payment.



3

TAX REMEDIES (GOVERNMENT)

Judicial; Criminal Action

❑ Is assessment required?

- Prior assessment is not required before filing a criminal action;
- Final assessment is not required to collect delinquent taxes in criminal tax case;
- The criminal action is deemed a collection case.

❑ What if there is pending civil action to collect taxes?

- It will be **suspended** before judgment on the merits until final judgment is rendered on the criminal action, or
- **consolidated** with the criminal action
- cf. Rule 111, Sec. 2, Rules of Court.

4

TAX REMEDIES

Assessment Process

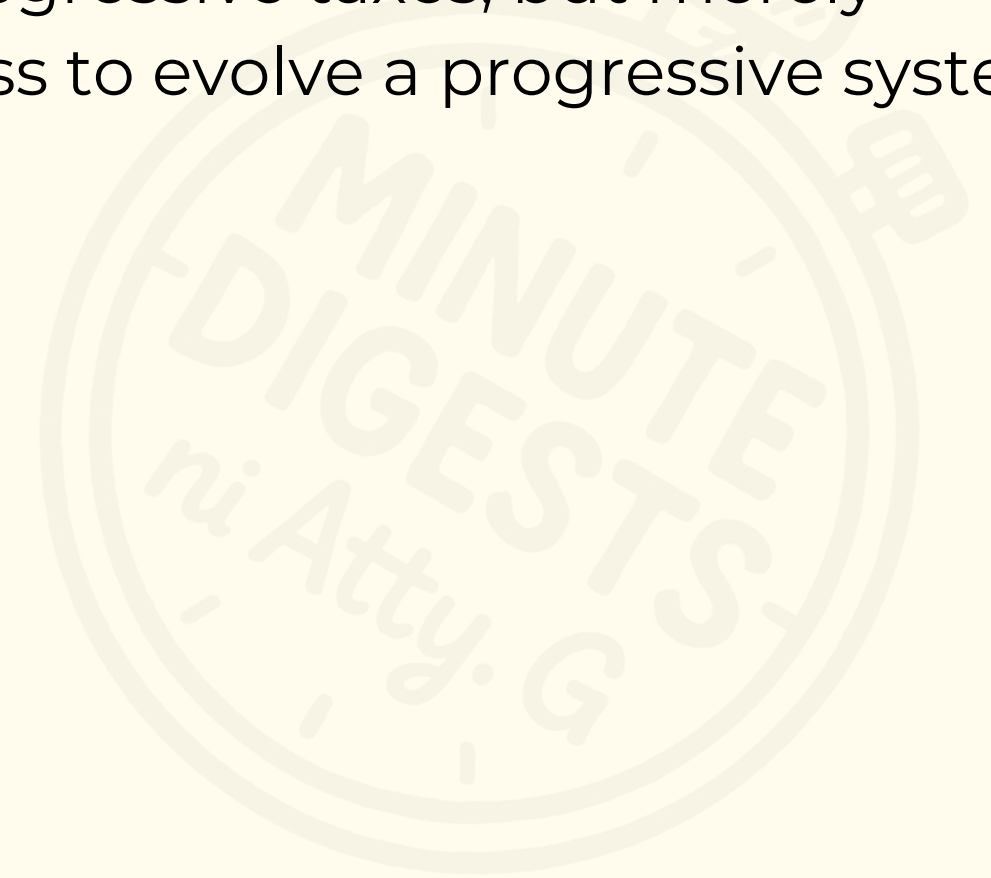
- ❑ Taxpayer files/omits the filing of tax return;
- ❑ Revenue officer secures LOA;
- ❑ Revenue officer issues ND/NIC;
- ❑ BIR issues PAN;
- ❑ BIR issues FLD/FAN;
- ❑ Taxpayer protests (if adverse);
- ❑ Taxpayer appeals (if adverse).

5

CONSTITUTIONAL LIMITATIONS

Progressive System

The Constitution does **not prohibit** the imposition of regressive taxes, but merely directs Congress to evolve a progressive system of taxation.



6

TAXABILITY OF INCOME

❑ **Mere return of capital is not taxable**

- Association dues, membership fees, and similar charges collected from condo unit owners are not subject to taxes.
- Subsidies by a Philippine representative office from a foreign parent corporation.

❑ **Income derived from “whatever source”**

- Legal or illegal;
- The imposition of tax on illegal income does not legalize the activity from which income is derived.



Value-Added Tax

Zero-rated v. Exempt

ZERO-RATED

EXEMPT

Total relief from
tax burden

Partial relief from
tax burden

No Output VAT; can
claim Input VAT
credit or refund

No Output VAT;
cannot claim Input
VAT credit or refund

Export sales; sales
to exempt persons

Sale/importation of
food products in
original state

8

LOCAL TAXATION

Inherent Limitations

❑ LGUs cannot tax the national government, government instrumentalities, or other LGUs

- Exception: if the beneficial use of government property is granted to a taxable entity;
- the lessee, not the government, is liable for the tax;
- the government property cannot be forfeited or sold on public auction.

❑ GOCCs are generally taxable as ordinary corporation

- Machineries, equipment actually, directly, and exclusively used by LWD, GOCCs engaged in supply/distribution of water or generation/transmission of electric power;
- Exempt GOCCs under their charters: GSIS, SSS, PHIC, HDMF

Good!
Luck!