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Hoping for a tax refund

The humorist F. J. Raymond once said, "Next to being shot at and missed, nothing is really quite as satisfying as an income tax refund." Well, I completely agree. What are the chances that individual taxpayers will receive refunds from taxes that were erroneously paid years ago? In the Philippines, in particular, receiving tax refunds is unheard of, so it is satisfying to know it could actually happen. Due to a recent en banc decision by the Supreme Court (SC), it may be possible for taxpayers to claim a refund for incorrect amount of taxes paid to the government in 2008.

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In the SC en banc decision dated Jan. 24, the SC declared null and void the following provisions of Revenue Regulations (RR) No. 10-2008: (1) Sections 1 and 3 which disqualify minimum wage earners (MWEs) from the privilege of the MWE exemption in case they will receive bonuses and other benefits exceeding the statutory ceiling of P30,000; and (2) Section 3 insofar as it provides for a prorated application of the increased personal and additional exemptions under Republic Act (RA) No. 9504 for taxable year 2008

and for the period of applicability of the MWE exemption to begin only on July 6, 2008.

In addition, the SC ordered the secretary of finance and the commissioner of internal revenue to grant a refund, or allow the application of a refund by way of withholding tax adjustments, or allow a claim for tax credits to the MWEs whose minimum wage income were subjected to tax withholdings during 2008 due to receiving bonuses and other benefits exceeding P30,000. Individual taxpayers whose income in 2008 were subjected to the prorated application of the personal and additional exemptions are also entitled to a tax refund.

As a background, RA 9504 was approved and signed into law by former president Gloria Arroyo on June 17, 2008. The prominent features of the law, which took effect on July 6, 2008, are as follows: (1) it increased the basic personal exemption from P20,000 for a single individual, P25,000 for the head of the family, and P32,000 for a married individual to P50,000 for each individual; (2) it increased the additional exemption for each dependent, but not exceeding four from P8,000 to P25,000; (3) it raised the Optional Standard Deduction (OSD) for individual taxpayers from 10 percent of gross income to 40 percent of the gross receipts or gross sales, and introduced the OSD to corporate taxpayers at no more than 40 percent of their gross income; and (4) it granted minimum wage earners (MWE) exemption from payment of income tax on their minimum wage, holiday pay, overtime pay, night shift differential pay and hazard pay.

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Subsequently, the Bureau of Internal Revenue (BIR) issued RR 10-2008 on July 8, 2008 to implement the provisions of RA 9504. Under the RR, MWEs who will receive other benefits exceeding the P30,000 limit will not qualify for the MWE exemption, thus, they will be taxed on their entire earnings. The RR also provided for a prorated application of the new set of personal and additional exemptions by using a transitory withholding tax table for the period of July 6 to Dec. 31, 2008.

Following the issuance and effectivity of RR 10-2008, the SC case stemmed from a petition filed assailing the provisions of the Department of Finance and the BIR. Petitioners argued "the prorated application of the personal and additional exemptions under RR 10-2008 is not the legislative intent in this jurisdiction." They argued further "that RA 9504 did not provide for a prorated application of the new set of personal and additional exemptions" and that RA 9504 provides for an "unqualified tax exemption of the MWEs regardless of the other benefits they will receive."

The SC ruled affirmative that the increased personal and additional exemptions established by RA 9504 should be applied to the entire taxable year 2008. The test is whether the new set of personal and additional exemptions were available at the time of the filing of the income tax return. Though the determination of the status of individual taxpayers is at the close of a taxable year, the determination of their personal and additional exemption and the computation of their taxable income is when the tax becomes due (i.e April 15th tax filing deadline), and not during the time the income was earned or received. Therefore, the individual taxpayers should be entitled to claim the increased amount of exemptions for the entire year 2008. The SC also stressed that the rules on full taxable year treatment for the availment of the personal and additional exemptions were established in the 1997 Tax Code and not by the amendments of the provisions of the RA 9504. The RA merely introduced an increase in the amount of tax exemptions.

Following on the full taxable year treatment on the personal and additional exemptions, the SC also ruled that MWEs should be exempt for the entire taxable year 2008 on their minimum wage earnings. The RR cannot declare the income earned prior to July 6 as taxable and the income earned after July 6 as tax-exempt. It would contradict the tax code that taxable income is determined on a yearly basis. Further, the SC pointed out that receipt of other benefits exceeding the P30,000 limit should not make MWEs lose their tax exemption. Instead, they may be taxed on the income received in excess of the minimum wage and on the income they will receive other than as MWEs. It was stated in RA 9504 that to be exempt, one must be an MWE. MWE are defined as those individuals who receive wages not exceeding the prescribed minimum wage, the rate fixed by the Regional Tripartite Wage and Productivity Board.

In conclusion, the SC held that the BIR and DOF have "committed grave abuse of discretion in promulgating the assailed Sections 1 and 3 of RR 10-2008." And as far as the tax refund is concerned, the BIR has yet to issue directives on the process of applying for the tax refund. It is also unclear if a prescription period will apply and what documents are required to be submitted. As such, all affected individual taxpayers can only wait and hope for their respective tax refunds.

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