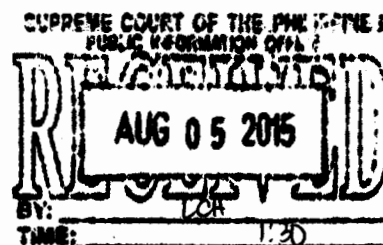




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 22, 2015** which reads as follows:*

“G. R. No. 172509 (China Banking Corporation v. Commissioner of Internal Revenue). – A Motion for Reconsideration (MR) dated 6 March 2015 filed by respondent Commissioner of Internal Revenue (CIR) seeks a review of our Decision dated 4 February 2015, in which we held that the right of the Bureau of Internal Revenue to collect taxes from petitioner China Banking Corporation was barred by prescription. The CIR offers a new argument in the MR - prescription does not run against the State.

Indeed, there is a rule in taxation that prescription does not run against the right of the government to assess and collect taxes.¹ The rule, however, applies only when Congress does not provide a time limit.² The rationale for the rule is that restrictions on the right of the government to assess and collect taxes “will not be presumed in the absence of clear legislation to the contrary.”³

over - three (3) pages

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¹ *Commissioner of Internal Revenue v. Ayala Securities Corp.*, 189 Phil. 159 (1980); *Estate of de la Viña v. Gov't. of the Phil.*, 65 Phil. 262-267 (1938). See also Roman M. Umali, Reviewer in Taxation, p. 7 (1971); Reynaldo G. Geronimo, Bar Reviewer on Taxation, in Power Point Slide 21 (soft copy purchased in 2009); Jose C. Vitug and Ernesto D. Acosta, Tax Law and Jurisprudence, pp. 40-41(2006).

² *Commissioner of Internal Revenue v. Ayala Securities Corp.*, supra note 1.

³ Id. at 159, 164.

In the present case, Section 319 (c) of the National Internal Revenue Code of 1977, as amended,⁴ has set a time limit for the government to collect the assessed tax, which was three years, to be reckoned from the date when the BIR mailed/released/sent the assessment notice to the taxpayer. Consequently, the general rule that taxes are imprescriptible does not apply to this case.

IN VIEW OF THE FOREGOING, the instant Motion for Reconsideration is hereby **DENIED** with **FINALITY**. No further pleadings are allowed. Let entry of judgment be issued in due course.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court *pk 712*

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Bureau of Internal Revenue
Rm. 703, BIR Bldg.
Diliman 1101 Quezon City

- over -

⁴ SEC. 319. *Exceptions as to period of limitations of assessment and collection of taxes.* —

(c) Where the assessment of any internal revenue tax has been made within the period of limitation above-prescribed *such tax may be collected by distraint or levy by a proceeding in court, but only if began (1) within five years after the assessment of the tax, or (2) prior the expiration of any period for collection agreed upon in writing by the Commissioner and the taxpayer before the expiration of such five-year period. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.* (emphasis supplied)

Batas Pambansa Blg. 700, which was approved on 5 April 1984, shortened the statute of limitations on the assessment and collection of national internal revenue taxes from 5 years to 3 years.

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