T.A.X. Satori
Tax, Accounting and Auxiliary Services

in partnership with:
BABYLON
EASING T.A.X. HABITS

# NAVIGATING TAXES WITH ENLIGHTENMENT: A GUIDE FOR SELF-EMPLOYED AND ENTREPRENEURIAL MINDS.

Unveiling Practical Tips and Common Error-Free Understanding of Philippine Taxation

HTTP://BIT.LY/TAX-SATORI-TUTORIALS

# CONTENTS

# 1. The Joy of Understanding Taxation

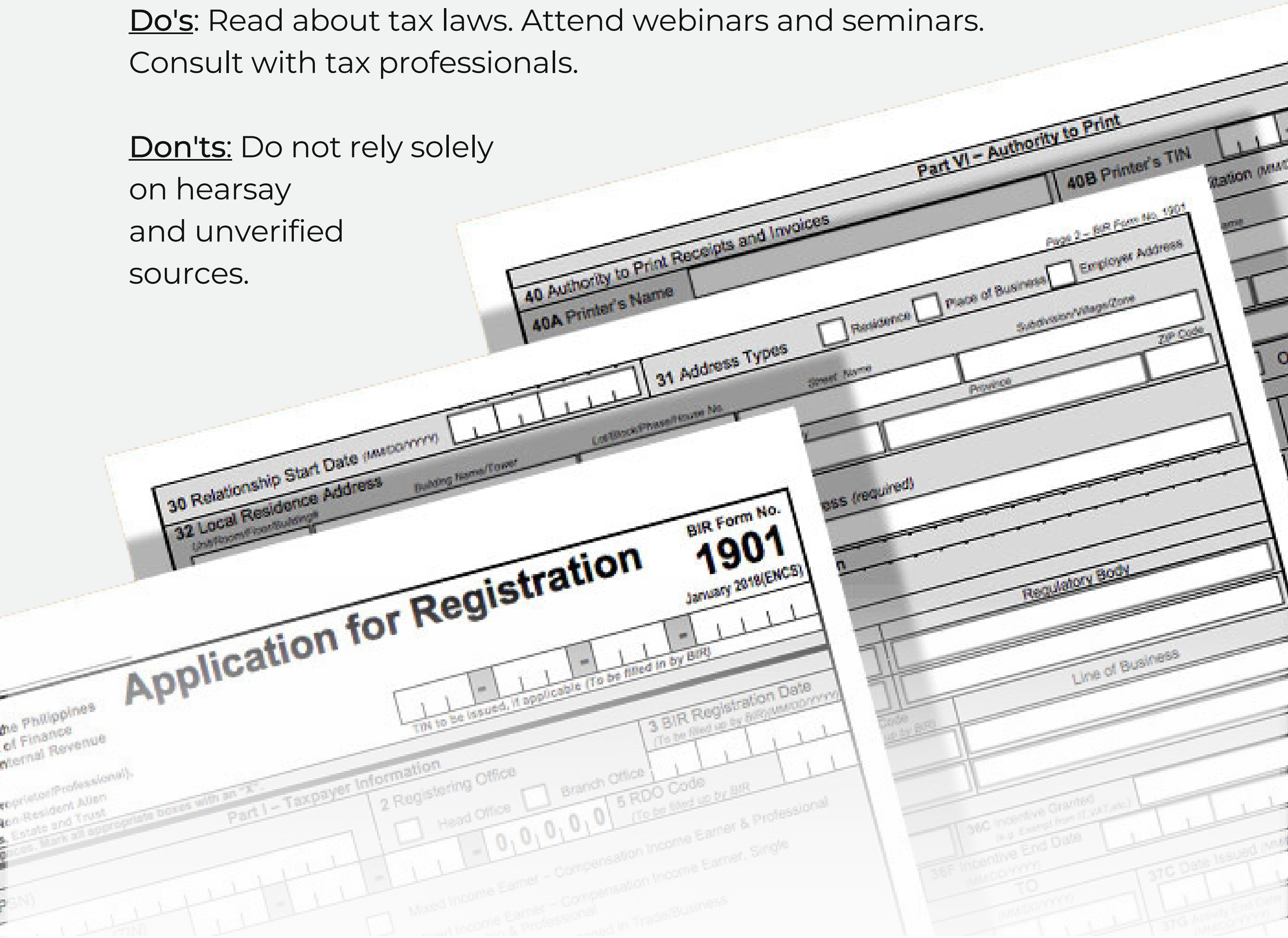
"*Taxation without representation is tyranny*," James Otis once famously declared.

But with the right understanding and guidance from T.A.X. Satori, entrepreneurs and the self-employed can find empowerment and even joy in taxation. We believe that a well- informed taxpayer is an empowered taxpayer. Start your journey by brushing up on the latest tax laws, rulings, and circulars.

When in doubt, consult with an expert.

<u>Do's</u>: Read about tax laws. Attend webinars and seminars. Consult with tax professionals.

<u>Don'ts:</u> Do not rely solely on hearsay and unverified sources.



# 2. Financial Management

## MAKING EVERY PESO COUNT

As Warren Buffett said, "*Do not save what is left after spending, but spend what is left after saving.*"

Effective tax planning and financial management is an integral part of a successful business. At T.A.X. Satori, we empower you to manage your finances by emphasizing the importance of accurate bookkeeping, prudent spending, and proactive tax planning.

Do's: Maintain precise and up-to-date records of your financial transactions to facilitate planning your taxes effectively. Seek professional guidance on tax matters to ensure optimal tax planning.

Don'ts: Do not disregard the importance of proper bookkeeping. Do not ignore the benefits of tax planning.

# 3. Minimizing Tax Risks

## FROM DAUNTING TO DOABLE

Common tax risks such as failing to register a business or to file certain information returns can be daunting.

T.A.X. Satori mentors and professionals can make these complex issues understandable and comprehensible.

<u>Do's</u>: Learn about the consequences of tax evasion. Regularly update your knowledge about new tax laws and regulations.

<u>Don'ts</u>: Do not avoid your tax obligations, and ensure compliance with the applicable tax laws. Do not ignore the importance of keeping yourself informed about tax matters.


3

# TIPS VS. COMMON ERRORS

## I. FAILURE TO REGISTER A BUSINESS (WHETHER ONLINE OR PHYSICAL), ITS HEAD OFFICE, BRANCH, OR FACILITY.

In accordance with Section 236 of the National Internal Revenue Code (NIRC) of the Philippines, it is mandatory to register every business, including main offices, branches, and facilities, with the Bureau of Internal Revenue (BIR).

Non- compliance or failure to register in due time exposes businesses to various penalties including financial fines and possible criminal charges.

Thus, registering a business timely and accurately is crucial to avoid penalties and manage tax risks, enabling the business to operate legally within the country's jurisdiction.

Case in point: Manchan Chan Ang Doing Business Under the Name of Ang Chin Hua Trading vs. CIR and Banco De Oro Universal Bank (CTA Case No. 9309), the Court of Tax Appeals underscored the importance of timely business registration, reiterating that even small businesses are not exempt from this requirement.

## II. FAILURE TO FILE CERTAIN INFORMATION RETURNS.

In the case of failure to file an information return, statement or list, or keep any record, or supply any information required by the Tax Code or by the Commissioner on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall, upon notice and demand by the Commissioner, be paid by the person failing to file, keep or supply the same, One thousand pesos (P*1,000*) for each failure: Provided, however, That the aggregate amount to be imposed for all such failures during a calendar year shall not exceed Twenty-five thousand pesos (P*25,000*).

## III. FAILURE OF A WITHHOLDING AGENT TO COLLECT AND REMIT TAX.

Any person required to withhold, account for, and remit any tax or who willfully fails to withhold such tax, or account for and remit such tax, or aids or abets in any manner to evade any such tax or the payment thereof, shall, in addition to other penalties, be liable.

**Case in point**: As cited in CIR vs. Smart Communication, Inc. (G.R. No. 179045-46), as an agent of the taxpayer, his authority to file the necessary income tax return and to remit the tax withheld to the government impliedly includes the authority to file a claim for refund and to bring an action for recovery of such claim.

## IV. FAILURE OF A WITHHOLDING AGENT TO REFUND EXCESS WITHHOLDING TAX.

Any employer/withholding agent who fails or refuses to refund excess withholding tax shall, in addition to the penalties provided in the Tax Code, be liable to a penalty to the total amount of refunds which was not refunded to the employee resulting from any excess of the amount withheld over the tax actually due on their return.

3

## V. FAILURE TO ISSUE INVOICES, RECEIPTS, OR ANY ACCOUNTABLE FORMS (VAT & INCOME TAX IMPACT).

Non-issuance of tax-related accountable forms may lead to heavy penalties, surveillance or mission order (Oplan Kandado operations), suspension and/or closure of the business (under Sec. 115 of the NIRC)

Case in point: In the case of CIR v. Filinvest Development Corporation (G.R. No. 163653, 19 July 2011), the Supreme Court emphasized the importance of issuing accurate receipts or invoices for the purpose of claiming deductions in income tax.

## VI. FAILURE TO MAINTAIN BOOKS OF ACCOUNTS AT THE PRINCIPAL PLACE OF BUSINESS.

Failure to maintain books and relevant ledgers/subsidiary ledgers at the principal place of business may result in further penalties and/or disallowance of expenses.

## VII. FAILURE TO OBSERVE ARMS-LENGTH PRICING UNDER TRANSFER PRICING RULES.

Failure to submit transfer pricing documentation and adhere to its policies, methodologies, and pricing may necessitate adjustments on tax reporting during BIR examinations.

Case in point: In the case of CIR v. Seagate Technology (G.R. No. 153866, 11 February 2005), the Supreme Court emphasized the criticality of maintaining adequate transfer pricing documentation by stating that taxpayers engaging with their affiliates must adhere to the arm's length standard.

# VIII. FAKE TRANSACTIONS AND TAX EVASION


Under the recently enacted Revenue Memorandum Circular (RMC) No. 38-2023, the BIR has stipulated guidelines and rules concerning fake transactions to combat tax evasion and fraudulent practices. The RMC clearly outlines what constitutes a 'fake transaction', which essentially refers to any transaction that is fictitious or concocted with the primary intent to evade taxes.

Penalties for engaging in fake transactions are severe, including but not limited to financial penalties, imprisonment, and the potential revocation of business licenses. Violations include issuing fake receipts, misrepresenting business transactions, and over/under-reporting income or expenses.

In "Banco de Oro Savings and Mortgage Bank v. Equitable Banking Corporation and RTC of Quezon City (G.R. No. 74917, 20 January 1988), the Supreme Court of the Philippines emphasized the importance of truthfulness in business transactions for the purpose of tax reporting. The court held that, for tax purposes, transactions must be reported in the taxpayer's books and presented to the BIR as they actually occurred.

"In the case of Alejandro Tankeh v. Development Bank of the Philippines (G.R. No. 171428, 11 November 2013), the Supreme Court emphasized businesses' responsibility to prevent fraudulent transactions to avoid the nullification of their transactions and maintain the integrity of their financial records.

The Court ruled that taxpayers are obligated to pay taxes on actual transactions and that inventing transactions for the purpose of lowering tax liability is a violation of the National Internal Revenue Code (NIRC).

To manage this risk, businesses should ensure all transactions are legitimate and accurately reported. Regular audits can help identify and rectify any discrepancies. Furthermore, businesses should educate their employees about the implications of engaging in fake transactions, both for the business and individually.

By adhering to the guidelines set forth in RMC No. 38-2023 and maintaining accurate records of transactions, businesses can avoid the severe penalties associated with fake transactions. This Tax Guide can play a crucial role in educating and guiding businesses on how to navigate these rules effectively and ensure compliance with tax laws.

# IX. FAILURE TO OBSERVE THIRD PARTY MATCHING RISKS.

In order to provide a comprehensive overview of the invoicing requirements outlined in Section 113 of NIRC of the Philippines (Tax Code), as amended, this introduction will highlight the various sections that encompass these regulations:

Point 1: Non-observance of the withholding tax function and the invoicing requirements may result in mismatch of expenses or asset recognition, while non-reconciliation of the following may result in further assessment:

- VAT Declaration vs. Books
- VAT Declaration vs. POS or e-Sales reporting
- VAT Declaration vs. Audited Financial Reports
- VAT Declaration vs. Income Tax Returns
- Salaries per Alphalisting of Employees vs. Books
- Salaries per Alphalisting of Employees vs. Audited Financial Reports
- Salaries per Alphalisting of Employees vs. Income Tax Returns
- Salaries per Alphalisting of Employees vs. SSS, PHIC, & HDMF Reporting
- Income Payments at Source per Alphalisting of Suppliers vs. Books
- Income Payments at Source per Alphalisting of Suppliers vs. Audited Financial Statements
- Income Payments at Source per Alphalisting of Suppliers vs. Income Tax Returns
- Income Payments (Foreign Suppliers) per Alphalisting vs. Books
- Income Payments (Foreign Suppliers) per Alphalisting vs. Audited Financial Statements
- Income Payments (Foreign Suppliers) per Alphalisting vs. Income Tax Returns
- Income Declaration per City or Municipal Tax vs. VAT Declaration
- Income Declaration per City or Municipal Tax vs. Income Tax Return, Books, or Audited Reports
- Similar reconciliations that involve third-party matching.

Point 2: The Philippine tax system requires businesses to follow a set of regulations concerning the withholding of tax, issuance of invoices, and maintenance of books and records. Under Revenue Regulations No. 2-98, as amended, and Section 51 of the National Internal Revenue Code (NIRC), withholding agents are required to deduct and withhold necessary taxes, and submit necessary returns and declarations accurately and on time.

When discrepancies occur between VAT declarations, books, POS or e-Sales reporting, audited financial reports, or income tax returns, these are considered non-observance of the withholding tax function and invoicing requirements, leading to mismatches in expense or asset recognition. This non-compliance may lead to additional assessments, penalties, or even criminal charges.

In the case of Land Bank of the Philippines v. Emmanuel Onate (G.R. No. 192371, 15 January 2014), the Supreme Court emphasized the importance of maintaining accurate records of all investments, receipts, disbursements and other transactions.

(a) VAT Declaration vs. Books: Businesses are required to maintain proper books of accounts, wherein their VAT declarations must coincide with the data recorded in the books. Any discrepancy may lead to a tax audit and subsequent penalties.

(b) VAT Declaration vs. POS or e-Sales reporting: With the issuance of Revenue Regulations No. 16-2018, electronic sales reporting to the BIR has become mandatory for taxpayers who are required to issue sales invoices or receipts, particularly in cases where a POS system is used. Inconsistencies between VAT declarations and e-Sales may result in penalties.

(c) VAT Declaration vs. Audited Financial Reports: audited financial statements should coincide with the VAT declarations. Discrepancies may lead to penalties or a re-assessment of tax liabilities.

(d) <u>VAT Declaration vs. Income Tax Returns:</u> VAT declarations and Income Tax Returns should be consistent with each other. Any discrepancies could lead to an audit and potential penalties.

(e)-(h) <u>Salaries per Alphalisting of Employees vs. Books/Audited Financial Reports/Income Tax Returns/SSS, PHIC, & HDMF Reporting:</u> Under Revenue Regulations No. 1-2014, employers are required to submit an alphalist of employees to the BIR. Any discrepancy between this list and the company's books, audited financial reports, or SSS, PHIC, and HDMF reporting may result in penalties.

(i)-(n) <u>Income Payments at Source per Alphalisting of Suppliers (Local & Foreign) vs. Books/Audited Financial Statements/Income Tax Returns:</u> Similar to the alphalist of employees, businesses are required to submit an alphalist of local and foreign suppliers. Discrepancies can result in penalties and audits.

(o)-(p) <u>Income Declaration per City or Municipal Tax vs. VAT Declaration/Income Tax Return, Books, or Audited Reports:</u> Businesses are required to declare their income to their respective city or municipal tax offices. This declaration should be consistent with their VAT Declaration, Income Tax Return, and Books or Audited Reports. Inconsistencies may result in additional assessments or penalties.

(q) Similar reconciliations that involve third-party matching: Failure to reconcile and properly match data with third-party entities could lead to an investigation and potential penalties. This includes failure to reconcile with other government agencies or private entities where a reporting relationship exists.

Case in point: Bank of the Philippine Islands v. CIR (G.R. No. 139736, 17 October 2005), the Court upheld the Commissioner's authority to use third-party information to assess a taxpayer's correct tax liability, emphasizing the importance of proper third-party matching in tax compliance.

To avoid such discrepancies and the resulting penalties, businesses should invest in efficient accounting systems, conduct regular audits, and ensure compliance with tax regulations. Proper training should be provided to employees to ensure accurate reporting and reconciliation.

# 4. Knowledge is Power

## SERVICES TO IMPROVE YOUR TAX COMPLIANCE

Services like T.A.X. Satori can boost your tax knowledge and compliance. As Bill Gates said, "*Your most unhappy customers are your greatest source of learning.*"

In the realm of tax compliance, this means learning from past mistakes, both yours and others, and continually improving your tax habits.

Do's: Take advantage of T.A.X. Satori's services. Learn from your mistakes and those of others.

Don'ts: Do not repeat mistakes. Do not overlook the importance of continuous learning.

# 5. Conclusion

## BUSINESSES' FEEL GOOD JOURNEY TO COMPLIANCE

In this section, we will discuss strategies to manage these tax risks, including regular audits, timely filing, and maintaining accurate and complete records, to wit:

### 1. Regular Audits to Ensure Compliance

Performing regular internal audits can help to identify areas where the company might not be in full compliance with the tax laws. This includes reviewing the filing of returns, checking if withholding taxes are properly calculated and remitted, and verifying if transactions with related parties are at arm's length.

Case in point: In the case of Medicard Philippines, Inc. vs. Commissioner of Internal Revenue (G.R. No. 222743, 05 April 2017), the Court highlighted the importance of conducting regular audits and proper documentation to prevent discrepancies in tax returns.

### 2. Timely Filing and Payment

Filing and paying taxes on time can help avoid penalties and interest. Setting reminders for deadlines or using tax software can help with timely filing and payment.

Case in point: In Kepco Ilijan Corporation vs. Commission of Internal Revenue (G.R. No. 205185, 26 September 2018), the Supreme Court emphasized the importance of timely filing and payment of taxes to ensure compliance with tax regulations and avoid penalties.

### 3. Proper Documentation

Maintain proper documentation, including tax-related accountable forms, books, and ledgers. This not only helps in tax computations and filing but also serves as evidence in case of tax disputes.

Case in point: In the case of Commissioner of Internal Revenue vs. Unioil Corporation (G.R. No. 204405, 04 August 2021), the Supreme Court emphasized the significance of maintaining accurate documentation. It reiterated that proper documentation is crucial for successful tax claims.

### 4. Transfer Pricing Policy

Establish a transfer pricing policy that aligns with the arm's length principle. Regularly review and update the policy to reflect changes in business operations or market conditions.

Case in point: In CIR v. Missouri Square, Inc. (CTA Case No. 8707), the Supreme Court emphasized the importance of adhering to transfer pricing policies and substantiating deviations, highlighting the need for accurate documentation to support tax refund or credit claims.

### 5. Tax Planning and Advisory

Seek professional tax advice to understand the tax implications of business decisions and strategies.

This can aid in minimizing tax liabilities and maximizing tax effectiveness.

Hence, tax planning is a great way to avoid penalties and charges, this highlights the need of firms addressing their tax liabilities in a proactive manner.

In closing, managing tax risks involves a comprehensive approach that includes proactive measures such as regular audits, timely filing and payment, maintaining proper documentation, having a transfer pricing policy, and seeking professional tax advice. By identifying and addressing potential risks, companies can minimize their tax liabilities and avoid penalties.

5

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# Prologue

With the right knowledge and tools, like those provided by T.A.X. Satori and Babylon2K, compliance can be a source of peace and satisfaction. As Richard Branson said, "*A big business starts small.*" A solid understanding of tax compliance is no different. So let's start this journey together, and turn taxation into a feel-good experience.

**Do's:** Stay updated with the latest tax rules and regulations. Use reliable tools like Babylon2K. Consult with tax experts.

**Don'ts:** Do not disregard changes in tax laws. Do not hesitate to seek help when needed.

Remember, at T.A.X. Satori, we aim to ease your T.A.X. HABITS, turning a potentially stressful experience into a feel-good journey. Your journey to better tax compliance and wealth generation starts with a simple step: getting the right help and education. Happy tax compliance!

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*The opinion or advice expressed in this advisory is based on the experience and insights of the T.A.X. SATORI & TUTORIAL Team.*

*Any inaccuracy in any of the assumptions set forth above may have the effect of changing all or part of this guide, and the content may not apply. The advice is based on our interpretation of the provisions of the Code, the Revenue Regulations promulgated and issued by the tax bureau, BIR positions as set forth in published Revenue Rulings, other pronouncement, orders and circulars, and judicial decisions in effect on the date of this report, any of which could be changed at any time. Any such changes may be retroactive and could significantly modify the statements and opinions/ advice expressed herein. In effect, this might render the advisory obsolete or incorrect in partial or in full. We undertake no obligation to advise you of changes that may hereafter be brought to our attention.*

# REFERENCES


2023 Revenue Memorandum Circulars - Bureau of Internal Revenue. (n.d.). http://bitly.ws/HyRh

Bureau of Internal Revenue. (2020). Tax Code - Bureau of Internal Revenue. Bir.gov.ph. http://bitly.ws/HyRt

Banco De Oro Savings v. Equitable Banking Corporation (157 SCRA 188, 20 January 1988) Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HyRx

CIR v. Estate of Benigno P. Toda Jr. (438 SCRA 290, 14 September 2004). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HyRT

CIR v. Solid Bank Corporation (416 SCRA 436, 25 November 2003). Lawphil.net. http://bitly.ws/HyRV

CIR v. Manila Mining Corporation (468 SCRA 571, 31 August 2005). Lawphil.net. http://bitly.ws/HySa

CIR v. Filinvest Development Corporation (654 SCRA 56, 19 July 2011). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySc

CIR v. Traders Royal Bank (753 SCRA 414, 18 March 2015). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySk

CIR v. Fortune Tobacco Corporation (705 SCRA 430, 11 September 2013). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySq

Philippine Banking Corporation v. CIR (577 SCRA 366, 30 January 2009). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySs

CIR v. Isabela Cultural Corporation (515 SCRA 556). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySA

Metropolitan Bank and Trust Co. v. CIR (595 SCRA 234, 04 August 2009). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySG

Banco De Oro, et.al v. Republic (745 SCRA 361, 13 January 2015). http://bitly.ws/HySL

Chevron Philippines, Inc. v. CIR (768 SCRA 414, 01 September 2015). Lawphil.net. http://bitly.ws/HySQ

Wonder Mechanical Engineering Corporation v. CTA (64 SCRA 555, 30 June 1975). Lawphil.net. Retrieved June 7, 2023, from http://bitly.ws/HySU

Lovell, H., Bautista, R., Esperanza, H., Fabon-Victorino, R., Ma, H., Belen, M., Ringpis-Liban, A., Amelia, D., Castillo-Esquivel, M., Marites, N., Cruz, M., Geneive, R., Barcenas, A., Justice, & Chairperson. (n.d.). REPUBLIC OF THE PHILIPPINES COURT OF TAX APPEALS QUEZON CITY THIRD DIVISION Executive Clerk of Court II Court Stenographer III Clerk III 1. MANCHAN CHAN ANG DOING BUSINESS UNDER THE NAME OF ANG CHIN HUA TRADING -versus - CTA CASE NO. 9309 COMMISSIONER OF INTERNAL REVENUE AND BANCO DE ORO UNIVERSAL BANK.

# Maximize your tax strategies, optimize financial planning, and gain expert guidance.

## UHYMAC TAX TEAM

The UHYMAC Tax Team consists of highly skilled professionals dedicated to providing top-notch tax services. With a deep understanding of the complex tax landscape, they guide individuals and businesses in achieving compliance and maximizing tax benefits.

With personalized service as their priority, the UHYMAC Tax Team takes the time to understand each client's unique circumstances and goals. Trust their expertise to guide you towards financial success while minimizing tax burdens.

Embrace this opportunity to revolutionize your tax planning. Avail Tax Satori and receive this e-book as a complimentary gift. Let UHY's Tax Team and Babylon2k be your trusted companions on the path to financial empowerment.

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