CTA Form No. 8 (For DCC)

23-000187-0046

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11142

BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO),
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. LARA NICOLE T. GONZALES
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. ELEUTERIO F. DIAO IV
Room 220, Tomas Saco Scapes
Tomasco Street, Nazareth
Cagayan de Oro City

GREETINGS:

You are hereby notified by these presents that on **April 23, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 24, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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BUKIDNON II ELECTRIC COOPERATIVE, INC. (BUSECO),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11142

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, JJ.

Promulgated:

APR 23 2026 ; 9:25 AM

x- -x

RESOLUTION

CUI-DAVID, J.:

For resolution of this Court is respondent's ***Motion for Reconsideration (Re: Decision dated 9 October 2025),*** filed on October 30, 2025, with petitioner's *Comment* belatedly filed via private courier on January 27, 2026.

Respondent's *Motion for Reconsideration* seeks the reversal of the Court's *Decision* dated October 9, 2025 (assailed *Decision)*, which granted petitioner's *Petition for Review.* The dispositive portion of the assailed *Decision* reads:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **GRANTED**.
>
> Accordingly, the Formal Letter of Demand and Final Assessment Notice dated March 8, 2022, assessing petitioner for the alleged deficiency Income Tax and Compromise Penalty in the amount of ₱46,703,223.22 for the calendar year 2017, are hereby **DECLARED NULL AND VOID** and are consequently **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated March 1, 2023, is **REVERSED** and **SET ASIDE**.

Further, respondent is **ENJOINED** and **PROHIBITED** from proceeding with the collection of taxes in the above-captioned case.

SO ORDERED.

Respondent contests the Court's finding that the Bureau of Internal Revenue (**BIR**) failed to observe due process. The Court previously ruled that the assessment was void because the Preliminary Assessment Notice (**PAN**), Final Assessment Notice and Formal Letter of Demand (**FAN/FLD**), and the Final Decision on Disputed Assessment (**FDDA**) were nearly identical, indicating that petitioner's protests were ignored. Respondent argues that using identical language in successive notices does not prove that the taxpayer's protests were not considered. Respondent further argues that he is not barred from sustaining an assessment if the taxpayer's arguments are found to be "inadequate and unsupportive". Respondent additionally claims that petitioner was given ample opportunity to contest the findings through various replies and protests, which constitutes sufficient compliance with due process.

Further, respondent notes that petitioner remains registered with the National Electrification Administration (**NEA**) and did not register with the Cooperative Development Authority (**CDA**). Thus, petitioner is allegedly not entitled to the tax incentives under the Cooperative Code. Respondent also argues that the Fiscal Incentives Review Board (**FIRB**) Resolution No. 24-87 specifically provides that income from electric service operations and interest income remain taxable.

Records reveal that respondent, through the Office of the Solicitor General, received the *Notice of Decision* on **October 13, 2025**.

Section 11 of Republic Act (**RA**) No. 1125,[1] as amended by RA No. 9282,[2] provides:

> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. — . . . .

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[1] AN ACT CREATING THE COURT OF TAX APPEALS.

[2] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> All other cases involving rulings, orders, or decisions filed with the CTA as provided for in Section 7 shall be raffled to its Divisions. A party adversely affected by a ruling, order or decision of a Division of the CTA may file a motion for reconsideration or new trial before the same Division of the CTA **within fifteen (15) days from notice thereof**: Provided, however, That in criminal cases, the general rule applicable in regular Courts on matters of prosecution and appeal shall likewise apply. (Emphasis supplied)

Accordingly, respondent had fifteen (15) days from October 13, 2025, or until **October 28, 2025**, to file a *Motion for Reconsideration.* However, respondent filed the *Motion for Reconsideration* only on October 30, 2025, **two (2) days** beyond the deadline.

Given the belated filing of respondent's *Motion,* the assailed *Decision* dated October 9, 2025, has become final, executory, and unappealable, thereby depriving this Court of jurisdiction to entertain the *Motion for Reconsideration.*

WHEREFORE, in light of the foregoing, respondent's *Motion for Reconsideration* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice