REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

AB LEISURE EXPONENT, INC. (DOING BUSINESS UNDER THE NAME AND STYLE OF BINGO BONANZA),	**CTA CASE NO. 9620**
Petitioner,	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**, *and* **REYES-FAJARDO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 23 2022 1:00pm

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RESOLUTION

MANAHAN, J.:

Before this Court is petitioner's **Motion for Reconsideration [of the Decision dated October 18, 2021]** filed on November 22, 2021, with respondent's **Comment/Opposition Re: Petitioner's Motion for Reconsideration** filed by registered mail on January 10, 2022 and received by the Court on February 23, 2022.

On October 18, 2021, the Court promulgated a Decision finding that the tax privileges of the Philippine Amusement and Gaming Corporation (PAGCOR) under Presidential Decree (PD) No. 1869 do not extend to petitioner since petitioner's contractual relations with PAGCOR are not in connection with the operations of casino(s), the dispositive portion of the said Decision is quoted as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **PARTIALLY GRANTED**.

The assessments issued by respondent against petitioner for the taxable year ended December 31, 2013 covering compromise penalties amounting to ₱55,000.00 are **CANCELLED and SET ASIDE**.

However, the assessments for deficiency VAT and DST are **UPHELD WITH MODIFICATIONS**. Accordingly, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱611,588,231.44**, inclusive of the 25% surcharge, 20% deficiency interest, and 20% delinquency interest, imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, as follows:

	VAT	DST	Total
Basic (Remaining) Deficiency Tax Due	₱ 146,659,175.52	₱ 122,238,863.53	₱ 268,898,039.05
25% Surcharge	36,664,793.88	30,559,715.88	67,224,509.76
Total	**₱183,323,969.40**	**₱152,798,579.41**	**₱336,122,548.81**
20% Deficiency Interest			
VAT: from January 25, 2014 to May 24, 2017			
(₱146,659,175.52x 20% x 1,215/365 Days)	97,638,848.36		97,638,848.36
DST: from January 5, 2014 to May 24, 2017			
(₱122,238,863.53x 20% x 1,235/365 Days)		82,720,546.01	82,720,546.01
Amount due as of May 24, 2017	**₱280,962,817.76**	**₱235,519,125.42**	**₱516,481,943.18**
20% Deficiency Interest from May 25, 2017 to December 31, 2017			
VAT: *(₱146,659,175.52x 20% x 221/365 Days)*	17,759,823.45		17,759,823.45
DST: *(₱122,238,863.53x 20% x 221/365 Days)*		14,802,624.02	14,802,624.02
20% Delinquency Interest from May 25, 2017 to December 31, 2017			
VAT: *(₱280,962,817.76x 20% x 221/365 Days)*	34,023,442.59		34,023,442.59
DST: *(₱235,519,125.42x 20% x 221/365 Days)*		28,520,398.20	28,520,398.20
Amount due as of December 31, 2017	**₱332,746,083.80**	**₱278,842,147.64**	**₱611,588,231.44**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) on the total unpaid deficiency taxes due of ₱516,481,943.18 as of May 24, 2017, as determined above, or an amount of ₱283,003.80 per day, from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), as implemented by Revenue Regulations No. 21-2018.

SO ORDERED."

In its Motion, petitioner insists that the Court erred in holding that its contractual relationship with the PAGCOR is not in connection with the operations of casino(s) under PD

No. 1869. Petitioner raises the following grounds in support of its arguments, *viz.*:

I. The term 'casino(s)', as used in PD No. 1869, refers to a place or location where gaming activities are held.

II. The tax exemption granted to casino operators by virtue of Section 13(2)(b) of PD No. 1869 extends to petitioner as an operator of bingo gaming activities.

III. Moreover, bingo games do not fall under 'other authorized number games' under Section 190 of the National Internal Revenue Code of 1997. Thus, bingo card and/or receipts from bingo operations are not subject to DST.

IV. Since there is no VAT or DST deficiency assessment, the imposition of 25% surcharge on the alleged deficiencies is improper.

V. Assuming *arguendo* that petitioner is liable for VAT and DST, this Court incorrectly computed the deficiency and delinquency interest.

On other hand, in his comment, respondent primarily argues that petitioner erroneously claims that its bingo cards and/or receipts do not fall under the term "other number games". He points out that petitioner's sales revenues arising from bingo games, such as traditional bingo, electronic bingo, rapid bingo, and pull tabs are all subject to value-added tax (VAT). Respondent also asserts that the imposition of Documentary Stamp Tax (DST) is on the transaction made rather than on the document itself, as such, the DST is rightfully applied to bingo games. He explains that petitioner's bingo cards and/or receipts from bingo games are subject to DST pursuant to Section 190 of the National Internal Revenue Code (NIRC) of 1997, as amended. Lastly, respondent maintains that the same imposition of DST is equally applied to electronic bingo since it is levied on the transaction.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

The term 'casino(s)', as used in PD No. 1869, solely refers to those operated by PAGCOR itself.

The tax exemption granted to casino operators by virtue of Section 13(2)(b) of PD No. 1869 does not extend to petitioner as an operator of bingo gaming activities.

The court shall address petitioner's first and second arguments jointly.

Truly, Section 13(2)(a) and (2)(b) of PD No. 1869, provides that PAGCOR is exempt from the payment of any tax, whether national or local, except for a franchise tax at the rate of five percent (5%) of the gross revenue or earning derived by it from its operation under the said law. Furthermore, the said tax exemption inures to the benefit of, and extend to: (1) *corporations, associations, agencies or individuals with whom PAGCOR or operator has any contractual relationship in connection with operation of casino(s) authorized under PD No. 1869*; and (2) those receiving compensation or other remuneration from PAGCOR or operator as a result of essential facilities furnished and/or technical services rendered to PAGCOR or operator.

Clearly, while the tax exemption under Section 13(2)(b) of PD No. 1869 inures to the benefit of entities with whom PAGCOR has a contractual relationship with, the law adds a qualification that the contractual relationship must be **in connection with the operations of the casino(s) authorized to be conducted under this Franchise[.]** Stated differently, the tax exemption is made available only to those in a contractual relationship with PAGCOR in connection with PAGCOR's casino operations.[1]

Applying the foregoing in the present case, it must be recalled that petitioner has been given by PAGCOR a *Renewal*

[1] *Thunderbird Pilipinas Hotels and Resorts, Inc. v. Commissioner of Internal Revenue*, G.R. No. 211327, November 11, 2020.

of the Term of the Authority To Operate Traditional and Electric Bingo Games dated December 5, 2012, [2] in certain malls in Metro Manila covering the year 2013. Unfortunately, this does not equate to an authority to operate a casino or casinos. As such, petitioner's contractual relationship with PAGCOR is not in connection with the operations of a casino or casinos, as required under PD No. 1869. Consequently, the subject deficiency VAT and DST assessments by respondent must be sustained.

Moreover, in the case of *Thunderbird Pilipinas Hotels and Resorts, Inc. v. Commissioner of Internal Revenue,*[3] the Supreme Court clarified that the clause "*operations of the casino(s) authorized to be conducted under this Franchise*", as stated under Section 13(2)(b) of PD No. 1869, refers to casinos operated by PAGCOR itself. The exemption does not include private entities that were merely licensed to operate their own casinos, the High Court has held that:

> "Republic Act No. 9487, in amending Presidential Decree No. 1869, not only extended PAGCOR's franchise to operate casinos for another 25 years, but also granted PAGCOR the authority to license casinos and other gaming operations. xxx.
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> A more deliberate reading of Section 13(2)(b) of Presidential Decree No. 1869 and the amendments under Republic Act No. 9487 provides more formidable support for the conclusion in this case. The amendments merely pertained to giving PAGCOR the authority to issue licenses for casino operations. **Had Congress also intended to extend the tax exemptions to PAGCOR licensees, it could have easily done so by expanding Section 13 (2)(b) and adding words such as 'licensees of PAGCOR' and the like. There must be a positive provision, not merely a vague implication, of the law creating that exemption**.
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> Presidential Decree No. 1869 was issued to centralize the operation of casinos into one corporate entity, PAGCOR. Section 1 states: xxx.
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> Thus, when the tax exemptions were granted under Section 13 of Presidential Decree No. 1869, the legislature contemplated a scenario where the casino operations would be centralized under the sole and exclusive authority of PAGCOR.

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[2] Exhibit "P-3", Docket – Vol. 2. p. 606.
[3] *Supra* Note 1.

> Under Section 13(2)(a), PAGCOR was granted tax exemption on earnings derived from its casino operations. This tax exemption was, under Section 13(2)(b), also extended to entities that have a contractual relationship with PAGCOR in connection with its operation of casinos.
>
> **In other words, the clause 'operations of the casino(s) authorized to be conducted under this Franchise' under Section 13(2)(b) referred to casinos operated by PAGCOR itself.**
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> The legislature, then, could not have envisioned that the clause would cover casinos operated by PAGCOR licensees since, at that time, PAGCOR had the sole and exclusive authority to operate casinos. Had that been its intention, Congress should have unequivocally provided in the amendatory law, Republic Act No. 9487, that tax exemptions extend to PAGCOR licensees.
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> As stated earlier, it is a settled rule that tax exemptions are strictly construed and must be couched in clear language. This Court has held that 'if an exemption is found to exist, it must not be enlarged by construction, since the reasonable presumption is that the state has granted in express terms all it intended to grant at all[.]'" *(Emphases and underscoring supplied)*

Based above, it is clear that Section 13(2)(b) of PD No. 1869 is construed to mean that the tax exemption of PAGCOR extends only to those individuals or entities that have contracted with PAGCOR in connection with PAGCOR's casino operations. *The exemption does not include private entities that were licensed to operate their own casinos.*

Going back to the present case, petitioner was authorized and licensed to operate its own bingo games by virtue of *Renewal of the Term of the Authority To Operate Traditional and Electric Bingo Games* dated December 5, 2012. Even assuming that the operation of bingo games is to be considered included in the phrase of "operation of casinos", petitioner still does not fall within the purview of Section 13(2)(b) as it does not cover casinos operated by PAGCOR licensees.

Perforce, the right of taxation is inherent in the State. It is a prerogative essential to the perpetuity of the government; and he who claims an exemption from the common burden, must justify his claim by the clearest grant of organic or statute law. When exemption is claimed, it must be shown indubitably to exist. At the outset, every presumption is against it. A well-founded doubt is fatal to the claim; it is only when the terms of the concession are too explicit to admit fairly of any other construction that the proposition can be supported.[4]

The phrase *'authorized number games'* includes any bingo games, whether it is traditional or electronic; DST is an excise tax imposed on the transaction rather than on the document.

With regard to petitioner's third argument that bingo games do not fall under "other authorized number games" and bingo cards and/or receipts from bingo operations are not subject to DST pursuant to Section 190 of the NIRC of 1997, as amended, the Court does not agree.

On the imposition of DST on "other authorized number games", Section 190 of the NIRC of 1997, as amended, provides that:

> "**Sec. 190.** *Stamp Tax on Jai-alai, Horse Race, Tickets, Lotto or Other Authorized Numbers Games.*- On each jai-alai, horse race ticket, lotto, or other authorized numbers games, there shall be collected a documentary stamp tax of Twenty centavos (₱0.20): *Provided,* That if the cost of the ticket exceed One peso (₱1.00), an additional tax of Twenty centavos (₱0.20) on every One peso (₱1.00), or fractional part thereof, shall be collected."

Verily, the basic statutory construction principle of *ejusdem generis* states that where a general word or phrase follows an enumeration of particular and specific words of the same class, the general word or phrase is to be construed to include – or to be restricted to – things akin to or resembling, or of the same kind or class as, those specifically mentioned.[5]

Similar to *jai-alai*, horse race, and lotto – which are all number games; bingo games also use numbers or

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[4] *The City of Iloilo, et al. v. Smart Communications, Inc. (SMART),* G.R. No. 167260, February 27, 2009, citing *E. Rodriguez, Inc. v. The Collector of Internal Revenue, et al.*, G.R. No. L-23041, July 31, 1969.

[5] *Emeteria Liwag v. Happy Glen Loop Homeowners Association, Inc.*, G.R. No. 189755, July 4, 2012.

combinations thereof as a factor in giving out the prize or proceeds of the game. Hence, applying the principle of *ejusdem generis*, bingo games whether traditional or electronic are certainly considered an "other authorized numbers games" subject to the imposition of DST under Section 190 of the NIRC of 1997, amended. Moreover, under Section 3(c)(3) of Revenue Regulations (RR) No. 9-00,[6] the term "bingo" is considered as a number games, to wit:

> "SECTION 3. *Mode of Payment and Remittance of Tax* –
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> x x x
>
> (c) *Person liable to remit the DST.* – In general, the full amount of the tax imposed under Title VII of the Code may be remitted by any of the party or parties to the taxable transaction, except in the following cases:
>
> x x x
>
> (3) *Stamp tax on Jai-Alai, Horse Race, Lotto or other Authorized Numbers Games.* — The proprietor or operator shall remit the tax. If such proprietor or operator is exempt from the tax, he shall collect the tax from the other party who is not exempt from the tax, and shall remit the same in the manner as prescribed in these Regulations.
>
> EXAMPLE:
>
> (a) xxx.
>
> (b) The Philippine Amusement and Gaming Corporation (PAGCOR), either by itself **or through its licensees or grantees, undertake 'Number Games' and sell 'betting cards' to the betting public (e.g., 'Bingo Cards')**. In this case, PAGCOR or its licensees/grantees shall remit the documentary stamp tax to the Bureau on their respective sale of 'betting cards' to the betting public." *(Emphasis supplied)*

In the same vein, this Court also holds that bingo games, **whether traditional or electronic**, is subject to the imposition of DST under Section 190 of the NIRC of 1997, as amended. It must be stressed that a DST is actually an excise tax because it is imposed on the transaction rather than on

[6] "*SUBJECT: Mode of Payment and/or Remittance of the Documentary Stamp Tax (DST) Under Certain Conditions*", dated August 31, 2000.

the document.[7] In the case of *First Planters Pawnshop, Inc. v. Commissioner of Internal Revenue*,[8] the Supreme Court held that DST is not limited to the document alone, it is an excise tax on the exercise of a right or privilege to transfer obligations, rights or properties incident thereto, to wit:

> "The Court has settled this issue in *Michel J. Lhuillier Pawnshop, Inc. v. Commissioner of Internal Revenue*, in which it was ruled that the subject of DST is not limited to the document alone. Pledge, which is an exercise of a privilege to transfer obligations, rights or properties incident thereto, is also subject to DST, thus –
>
> > x x x the subject of a DST is not limited to the document embodying the enumerated transactions. A DST is an excise tax on the exercise of a right or privilege to transfer obligations, rights or properties incident thereto. xxx"

It is well recognized rule that where the law does not distinguish, courts should not distinguish. *Ubi lex non distinguish nec nos distinguere debemos.* The rule, founded on logic, is a corollary of the principle that general words and phrases in a statute should ordinarily be accorded their natural and general significance. The rule requires that a general term or phrase should not be reduced into parts and one part distinguished from the other so as to justify its exclusion from the operation of the law. In other words, there should be no distinction in the application of a statute where none is indicated. For courts are not authorized to distinguish where the law makes no distinction. They should instead administer the law not as they think it ought to be but as they find it and without regard to consequences. A corollary of the principle is the rule that where the law does not make any exception, courts may not except something therefrom, unless there is compelling reason apparent in the law to justify it.[9]

More so, Sec. 10 of RR No. 13-2004,[10] further provides that the DST rates as imposed under the NIRC of 1997, as

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[7] *Philippine Banking Corporation (Now: Global Business Bank, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 170574, January 30, 2009.

[8] G.R. No. 174134, July 30, 2008.

[9] *Philippine British Assurance Co., Inc. v. Honorable Intermediate Appellate Court, et al.*, G.R. No. 72005, May 29, 1987.

[10] "*SUBJECT: Implementing the Provisions of Republic Act No. 9243, An Act Rationalizing the Provisions on the Documentary Stamp Tax of the National Internal Revenue Code of 1997, as Amended, and for Other Purposes*", dated December 23, 2004.

amended by Republic Act (RA) No. 9243, shall be applicable on all documents not otherwise expressly exempted by the said law, **notwithstanding the fact that they are in electronic form**. As provided for by RA No. 8792, otherwise known as the *Electronic Commerce Act*, <u>electronic documents are the functional equivalent of a written document under existing laws, and the issuance thereof is therefore tantamount to the issuance of a written document, and therefore subject to DST</u>.

To stress, administrative regulations enacted by administrative agencies to implement and interpret the law which they are entrusted to enforce have the force of law and are entitled to respect. Such rules and regulations partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, they have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court. [11]

Hence, bingo games, whether traditional or electronic, are subject to DST under Section 190 of the NIRC of 1997, as amended.

The imposition of 25% surcharge on both deficiency VAT and DST was proper for petitioner's failure to file any return and pay the tax due thereon.

As to its fourth argument, petitioner insists that since there was no VAT or DST deficiency assessment, the imposition of 25% surcharge on the alleged deficiencies is improper.

However, this Court is not convinced.

Indeed, Section 248(A)(1) of the NIRC of 1997, as amended, imposes a twenty-five percent (25%) surcharge for failure to file any return and pay the tax due thereon as required under the provisions of the NIRC or rules and regulations on the date prescribed. In the present case,

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[11] *Abakada Guro Party List (formerly AASJS), et al. v. Hon. Cesar V. Purisima, et al.*, G.R. No. 166715, August 14, 2008.

considering that petitioner failed to file the required VAT and DST returns and pay the corresponding taxes due thereon, the imposition of 25% surcharge on the deficiency VAT and DST is only proper.

The double imposition of both deficiency and delinquency interest under Section 249 prior to its amendment by the TRAIN Law (effective January 1, 2018), will still apply in so far as the period between the date prescribed for payment until December 31, 2017.

As for its last argument, petitioner asserts that the Court incorrectly computed the deficiency and delinquency interest as both were simultaneously imposed upon it from May 25, 2017 until December 31, 2017, in violation of Section 249 of NIRC of 1997, as amended.

Unfortunately, petitioner's assertion is misplaced.

To recall, prior to its amendment by RA No. 10963 or the *Tax Reform for Acceleration and Inclusion Act* (TRAIN Law), Section 249 of the NIRC of 1997, as amended, provides for the imposition of civil interests as follows, *viz.*:

> "**SEC. 249.** *Interest.* –
>
> (A) *In General.*– There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (2o%) per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment until the amount is fully paid.
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> (B) *Deficiency Interest.*– Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof.
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> (C) *Delinquency Interest.* - In case of failure to pay:
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> (1) The amount of the tax due on any return to be filed, or
> (2) The amount of the tax due for which no return is required, or

(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax."

In the Court of Tax Appeals (CTA) case of *Takenaka Corporation Philippine Branch v. Commissioner of Internal Revenue, CTA EB Case No. 745 (CTA Case No. 7701), September 4, 2012,* the CTA *En Banc* thoroughly explained the basis of the simultaneous imposition of deficiency and delinquency interests, to wit:

> "A careful perusal of the foregoing provision reveals that there is no double imposition of interests as the law clearly differentiates deficiency interest from delinquency interest. *Deficiency* is defined as the amount still due and collectible from a taxpayer upon audit or investigation; whereas *delinquency* is defined as the failure of the taxpayer to pay the tax due on the date fixed by law or indicated in the assessment notice or letter of demand.
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> Consequently, *deficiency interest* is imposed upon any tax that is still due and unpaid to the government. Such interest is imposed by the fact that a portion of the tax imposed by law, which is the 'deficiency tax', is still withheld by the taxpayer. Otherwise stated, it is imposed on the amount short of the full tax due and should be paid to the government, which is the deficiency tax.
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> *Delinquency interest*, on the other hand, is the interest imposed on failure to pay (i) the amount of tax due on any return required to be filed, (ii) the amount of tax due for which no return is required, or (iii) deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner. It is the interest upon the delay in the payment of the amount of tax due whether return is required to be filed or not, or delay in the payment of deficiency tax, surcharges and interests thereon.
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> Further, as to when the deficiency and delinquency interests legally accrue, Section 249 (B) and (C)(3) of the NIRC of 1997, as amended, evidently states that the deficiency interest on any deficiency tax shall be assessed *'from the date prescribed for its payment until the full payment thereof'*; while the assessment of the delinquency interest that is imposed upon failure to pay a deficiency tax, or any surcharge or interest thereon, shall be reckoned from *''the due date appearing in the notice and demand of the Commissioner until the amount is fully paid'*.

> Clearly, these two (2) interests are different in nature. **Deficiency interest is imposed for the *shortage* of taxes paid, while delinquency interest is imposed for the *delay* in payment of taxes**. Hence, having different nature for their existence, petitioner cannot assail double imposition of interests as the law itself allows the simultaneous imposition of these two kinds of interests."

However, the foregoing rule was subsequently amended by Section 75 of the TRAIN Law, which took effect on January 1, 2018, to wit:

> "**Section 75.** Section 249 of the NIRC, as amended, is hereby further amended to read as follows:
>
> 'SEC. 249. *Interest.* –
>
> (A) *In General.*– There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest for loans or forbearance of any money in the absence of an express stipulation as set by the Banko Sentral ng Pilipinas from date prescribed for payment until the amount is fully paid: *Provided*, **That in no case shall the deficiency and delinquency interest prescribed under Sections (B) and (C) hereof, be imposed simultaneously**.
>
> (B) *Deficiency Interest.*– Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, **which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier**." *(Emphases and underscoring supplied)*

Accordingly, in order to avoid confusion, and also to explain the effect of the amendments introduced by the TRAIN Law in the imposition of interest on tax liabilities, the Secretary of Finance issued RR No. 21-2018,[12] the relevant Sections of which states that, to wit:

> "**SECTION 1.** *Scope.*– xxx.

[12] "SUBJECT: Regulations Implementing Section 249 (Interest) of the National Internal Revenue Code (NIRC) of 1997, as Amended under Section 75 of the Republic Act (RA) No. 10963 or the 'Tax Reform for Acceleration and Inclusion (TRAIN Law)'", dated September 14, 2018.

SECTION 2. *Rate of interest.*- There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the effective legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas (BSP) from the date prescribed for payment until the amount is fully paid.

The rate of interest per BSP Memorandum No. 799 series of 2013 for loans or forbearance of any money in the absence of an express stipulation is six percent (6%). Thus, the rate of legal interest imposable under Section 249 of the Tax Code, as amended, shall be twelve percent (12%). A Circular shall be issued by the Commissioner in case BSP prescribes new rate of interest.

SECTION 3. *Deficiency Interest.*- Interest imposed on any deficiency tax due, which interest shall be assessed and collected from the date prescribed for its payment until: (a) full payment thereof, or (2) upon issuance of a notice and demand by the Commissioner or his authorized representative, whichever comes first.

SECTION 4. *Delinquency Interest.*- Interest imposed on the failure to pay:

(1) The amount of the tax due on any return to be filed; or
(2) The amount of the tax due for which no return is required; or
(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner or his authorized representative until the amount is fully paid, which interest shall form part of the tax.

SECTION 5. *No Double Imposition of Interest.*- **Upon the effectivity of the TRAIN Law**, in no case shall the deficiency and delinquency interest prescribed herein be imposed simultaneously.

Illustration 1: xxx.

SECTION 6. *Transitory Provision.*- In cases where the tax liability/ies or deficiency tax/es became due before the effectivity of the TRAIN Law on January 1, 2018, and where the full payment thereof will only be accomplished after the said effectivity date, the interest rates shall be applied as follows:

Period	*Applicable Interest Type and Rate*
For the period up to December 31, 2017	Deficiency and/or delinquency interest at 20%

For the period January 1, 2018 until full payment of the tax liability	Deficiency and/or delinquency interest at 12%

> The double imposition of both deficiency and delinquency interest under Section 249 prior to its amendment will still apply in so far as the period between the date prescribed for payment until December 31, 2017."

As clarified above, for deficiency tax liabilities falling due **prior** to the effectivity of TRAIN Law **but remained unpaid after** the said date, the taxpayer is still liable to pay both deficiency and delinquency interests at the rate of 20% on its unpaid tax liabilities until December 31, 2017. Thereafter, the lower rate of 12% and the prohibition on the double imposition of interests shall only take effect starting January 1, 2018.

Accordingly, there is no error in the computation of deficiency and delinquency interest.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised in petitioner's Motion for Reconsideration, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on October 18, 2021.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration [of the Decision dated October 18, 2021] is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice