REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

CHEVRON HOLDINGS INC. [formerly CALTEX (ASIA) LIMITED] Petitioner,	**CTA CASE NO. 8241**
	Members:
- versus -	**DEL ROSARIO, *PJ.* UY, and MINDARO-GRULLA, *JJ.***
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: AUG 14 2013 ; 1:30 p.m.

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DECISION

DEL ROSARIO, PJ:

This case involves a Petition for Review filed on March 23, 2011 by Chevron Holdings Inc. seeking for a refund or issuance of a tax credit certificate in the total amount of Fifty One Million One Hundred Ninety Eight Thousand Nine Hundred Forty Three Pesos and 8/100 (₱51,198,943.08) representing excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales of services for the year 2009.

THE FACTS

Petitioner Chevron Holdings Inc., formerly Caltex (Asia) Limited, is a corporation organized and existing under the laws of the State of Delaware, United States of America.[1] The purpose for which petitioner was created is limited to general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion;

[1] Par. 2, Admissions, Joint Stipulation of Facts and Issues (JSFI); p. 195, CTA Docket.

training and personnel management; logistics services; research and development services and product development; technical support and maintenance; data processing and communication; and business development.[2]

Petitioner is licensed by the Securities and Exchange Commission (SEC) to transact business in the Philippines as a regional operating headquarters (ROHQ) under SEC Registration No. A199802486 dated June 3, 1998.[3] Its office address is at the 35th Floor, Yuchengco Tower I, RCBC Plaza, 6819 Ayala Avenue, Makati City.[4] As an ROHQ, petitioner is authorized to engage in the business of providing finance, human resources, information technology, and procurement services to affiliates.[5]

Petitioner is also registered with the Bureau of Internal Revenue (BIR) as a large taxpayer and VAT-taxable entity under OCN 9RC0000170259, with Taxpayer's Identification No. (TIN) 201-056-391-000.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (CIR), vested with authority, among others, to decide, approve, and grant tax credits or refunds of overpaid or erroneously paid internal revenue taxes. She holds office at the 5th Floor, BIR National Office Building, Diliman, Quezon City.[6]

Petitioner filed its Quarterly VAT Returns for taxable year 2009, through the Bureau of Internal Revenue's (BIR) Electronic Filing and Payment System (eFPS), on the following dates:[7]

QUARTERLY VAT RETURN	DATE FILED
First Quarter	May 4, 2009
Second Quarter	August 24, 2009 (amended)
Third Quarter	October 20, 2009
Fourth Quarter	January 22, 2010

On November 2, 2010, petitioner filed an administrative claim for refund before the BIR and requested for the issuance of a tax credit certificate or tax refund of unutilized input taxes attributable to its zero-rated

2 Par. 6, Admissions, JSFI; pp. 195-196, CTA Docket.
3 Par. 2, Admissions, JSFI; p. 195, CTA Docket.
4 Par. 3, Admissions, JSFI; p. 195, CTA Docket.
5 Exhibit "V".
6 Par. 1, Admissions, JSFI; p. 195, CTA Docket.
7 Par. 7, Admissions, JSFI; p. 196, CTA Docket.

sales of services for taxable year 2009 in the aggregate amount of ₱51,198,943.08.[8]

Respondent failed to act with finality on petitioner's administrative claim for refund. Thus, petitioner was constrained to file the instant Petition for Review on March 23, 2011.[9]

In her Answer[10] filed on May 24, 2011, respondent interposed the following special and affirmative defenses:

> "4. Taxes paid and collected by the Bureau of Internal Revenue (BIR) are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is upon petitioner.
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> 5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.
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> 6. Petitioner must prove it is entitled to a claim for refund under the strictest terms.
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> 7. Petitioner must prove that it paid the alleged VAT input taxes for the period in question.
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> 8. Petitioner must prove that the same alleged VAT input taxes was [sic] not utilized against any output tax liability.
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> 9. Petitioner must prove that the alleged VAT input taxes for the period in question are attributable to its alleged VAT zero-rated sales.
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> 10. Petitioner must prove that the administrative and judicial claims were filed within the period prescribed by law.
>
> 11. Petitioner must prove that it [is] considered a Regional Operating Headquarter[s] within the purview of the National Internal Revenue Code (NIRC) of 1997 and as such, it is entitled to file an application for tax refund and/or issuance of Tax Credit Certificate.
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> 12. Petitioner's assertion that its services rendered to its affiliates, subsidiaries or branches abroad are subject to zero (0%) percent VAT cannot be accorded weight. Plain allegations without any evidentiary document to support its claim will not justify petitioner's application for tax refund.
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> 13. Petitioner must prove that its sales are VAT zero-rated as contemplated under Section 112(A) of the Tax Code of 1997.

[8] Exhibit "X".
[9] Pars. 8 and 9, Admissions, JSFI; p. 196, CTA Docket.
[10] pp. 104-112, CTA Docket.

14. The claim for refund in the amount of Fifty One Million One Hundred Ninety Eight Thousand Nine Hundred Forty Three Pesos and 8/100 (P51,198,943.08) allegedly representing accumulated and unutilized VAT input taxes paid by it for the taxable year 2009 is not properly documented. To support its claim, it is indispensable for petitioner to prove the following:

    a) Registration requirements of a value-added taxpayer in compliance with Section 9.236.1 (a) of Revenue Regulations No. 16-2005 and Section 236 of the NIRC of 1997, as amended;

    b) Invoicing and accounting requirements for VAT-registered persons as well as the filing and payment of VAT pursuant to the provisions of Section[s] 113 and 114 of the 1997 Tax Code, as amended. Failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of claim for input tax of the taxpayer claimant. (Revenue Memorandum Circular No. 42-2003);

    c) Petitioner must prove that it has fully complied with the requirements of Section 9.236-1.a of RR No. 16-2005 and Revenue Memorandum Order No. 53-98, otherwise, there would be no sufficient compliance with regard to the filing of administrative claim for tax credit/refund which is a condition *sine qua non* prior to the filing of judicial claim;

    d) In relation thereto, Section 112 (C) of the NIRC of 1997, as amended, requires submission of complete documents in support of the application for tax refund filed with respondent before the one hundred twenty (120) day period shall apply and before petitioner could avail of the judicial remedies provided by law. Ergo, petitioner's failure to submit proof of compliance with the aforesaid requirements warrants the dismissal of the instant Petition for Review;

15. In the case entitled '*San Roque Power Corp. vs. Commissioner of Internal Revenue*', the Supreme Court had the occasion to say:

    'In order to claim a refund or tax credit under Section 112 (A), petitioner must comply with the following criteria:

    1. The taxpayer is VAT-registered;

2. The taxpayer is engaged in zero-rated or effectively zero-rated sales;

3. The input taxes are due or paid;

4. The input taxes are not transitional input taxes:

5. The input taxes have not [been] applied against output taxes during and in the succeeding quarters;

6. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales;

7. For zero-rated sales under Section 106 (A) (2) (1) and (2); 106 (B), and 108 (B) (1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;

8. Where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and that the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume; and

9. The claim is filed within 2 years after the close of the taxable quarter when such sales were made.'

16. For a judicial claim for refund of input VAT to prosper, the petitioner must prove that there must be (a) zero-rated or effectively zero-rated sales; (b) that input taxes were incurred or paid; (c) that the input taxes are attributable to zero-rated or effectively zero-rated sales; (d) that the input taxes were not applied against any output VAT liability; and (e) the claim for refund/tax credit must be filed within the two year prescriptive period. *(EG & G Omni, Inc. v. CIR, CTA Case No. 5987, March 26, 2004)*

17. Corollary thereto, Section 4.110.8. of RR 16-2005 explicitly provides:

> '[(a)] Input taxes for tie [sic] importation of goods or the domestic purchase of goods, properties or services is made in the course of trade or business, whether such input taxes shall be credited against zero-rated sale, non-zero-rated sales, or subjected to the 5% Final Withholding VAT[,] must be substantiated and supported by the following documents, and must be reported in the information returns required to be submitted to the Bureau: (1) For the importation of goods — import entry or

> other equivalent document showing actual payment of VAT on the imported goods; (2) For [the] domestic purchase of goods and properties — invoice showing the information required under Sections 113 and 237 of the Tax Code.'

18. The provision of law regarding prescriptive periods are jurisdictional, compliance with which is essential for this Honorable Court to exercise authority over the instant case. Such statutes or rules are construed as mandatory as they have been absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharger [sic] of business and are necessary incident[s] to the proper, efficient and orderly discharge of official functions.

19. It is well-established in this jurisdiction that claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation and are therefore held against the claimant. Petitioner must present clear and convincing evidence to merit a tax refund. The taxpayer bears the burden of establishing the factual basis of its claim for refund.

20. Likewise, for a judicial claim to prosper, the party must not only prove that it is a VAT-registered entity, it must substantiate the input VAT paid by purchase invoices or official receipts (*Commissioner of Internal Revenue vs. Manila Mining Corporation, 468 SCRA 571*). Such that failure to comply with the requirements for a valid request for refund including the requirement for a valid sales invoice is fatal to the claim for refund. *(EG & G Omni, Inc. vs. CIR, CTA Case No. 5987, March 26, 2004)*

21. Basic is the rule that tax refunds are regarded as tax exemptions that are in derogation of the sovereign authority and are to be construed *strictissimi juris* against the person or entity claiming the exemption *(Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue, G.R. No. 141973, June 28, 2005)*. The burden of proof is upon him who claims the exemption and he must be able to justify his claim by the clearest grant under Constitutional or statutory law and he cannot be permitted to rely upon vague implications. *(BPI Leasing Corporation v. the Honorable Court of Appeals, et al., G.R. No. 127624, November 18, 2003)*. The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted. *(Sea-Land Service. Vs. Court of Appeals, 357 SCRA 444)*.

22. All told, petitioner's claim for refund filed before the Honorable Court should be denied for lack of merit." *(Citations omitted)*

The case was then set for pre-trial conference on August 4, 2011.[11] Respondent filed her Pre-trial Brief on July 29, 2011.[12]

When this case was called for pre-trial, only counsel for respondent, Atty. Janet L. Martinez, appeared; while counsel for petitioner failed to appear despite notice, and no Pre-trial Brief for petitioner was filed. Thus, upon motion of respondent, the case was dismissed for failure of petitioner to appear at the pre-trial and for its failure to file its Pre-trial Brief as per this Court's Resolution dated August 4, 2011.[13]

On August 22, 2011, a Motion for Reconsideration (Of Resolution dated August 4, 2011) with Motion to Admit Attached Pre-Trial Brief was filed by petitioner.[14] The Motion was granted via Resolution[15] dated October 5, 2011. Thus, the Resolution dated August 4, 2011 was set aside, the instant case was reinstated, and petitioner's Pre-trial Brief attached to the Motion was admitted. Consequently, a pre-trial conference was conducted on October 27, 2011.

On November 16, 2011, the parties filed with this Court their Joint Stipulation of Facts and Issues[16] which was later approved in a Resolution[17] dated November 18, 2011. In the same Resolution, the pre-trial was considered terminated and the parties were ordered to proceed with the trial on the merits and present only evidence not covered by their Joint Stipulation of Facts and Issues.

During trial, petitioner presented and formally offered evidence in support of its claim for refund or issuance of tax credit certificate. On October 25, 2012, a Resolution was issued by this Court admitting as petitioner's evidence Exhibits "A" to "AAA" and "CCC" to "GGG". Exhibit "BBB" was not, however, admitted as evidence for petitioner's failure to submit the same in Court.[18]

On the other hand, when it was respondent's turn to present evidence, counsel for respondent manifested that she has no witness to present.[19]

[11] p. 117, CTA Docket.
[12] pp. 118-121, CTA Docket.
[13] p. 126, CTA Docket.
[14] pp. 127-145, CTA Docket.
[15] Resolution dated October 5, 2011; pp. 185-188, CTA Docket.
[16] pp. 194-197, CTA Docket.
[17] p. 205, CTA Docket.
[18] pp. 381-382, CTA Docket.
[19] TSN taken on January 16, 2013; Minutes of the Hearing; p. 385, CTA Docket.

Petitioner posted its Memorandum on March 15, 2013[20] while respondent filed her Memorandum on April 1, 2013.[21] On April 19, 2013, the case was submitted for decision.[22]

THE ISSUES

The parties submitted the following issues[23] for this Court's disposition:

"1. Whether petitioner is entitled to its claim for refund and/or the issuance of tax credit certificates for the amount of Php51,198,943.08 representing its unutilized and/or unapplied input VAT for taxable year 2009.

2. Whether the administrative and judicial claims for refund were filed within the periods prescribed by law.

3. Whether the services rendered by petitioner to its affiliates, subsidiaries or branches abroad are subject to zero percent (0%) VAT.

4. Whether petitioner is considered as a Regional Operating Headquarters within the purview of the National Internal Revenue Code of 1997, as amended in order to be entitled to the tax refund being applied for."

THE COURT'S RULING

As aforestated, petitioner seeks the issuance of a tax credit certificate or the refund of unutilized input VAT paid on purchases of goods and services attributable to its zero-rated sales for taxable year 2009.

Records show that for the four quarters of taxable year 2009, petitioner duly filed with the BIR its Quarterly VAT Returns declaring the following:

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[20] pp. 400-421, CTA Docket.
[21] pp. 424-445, CTA Docket.
[22] pp. 447- 448, CTA Docket.
[23] Issues, JSFI; pp. 196-197, CTA Docket.

	1st Quarter	2nd Quarter
	(Exhibit "F")	*(Exhibit "G")*
VATable Sales/Receipts	₱ 40,850,770.05	₱ 38,979,808.53
Zero-Rated Sales/Receipts	620,201,395.33	508,595,820.63
Total Sales/Receipts	**₱ 661,052,165.38**	**₱ 547,575,629.16**
Output tax due	**4,902,092.41**	**4,677,577.02**
Less: Allowable Input Tax		
From Previous Quarter	(295,512,396.01)	(306,610,968.80)
Deferred on Capital Goods from Previous Quarter	(44,394,339.33)	(40,750,054.98)
Current transactions		
Domestic Purchase of Capital Goods not exceeding ₱1M	-	-
Domestic Purchase of Capital Goods exceeding ₱1M	-	(693,399.30)
Domestic Purchase of Goods (other than Capital Goods)	(992,319.90)	(518,527.74)
Domestic Purchase of Services	(11,364,060.94)	(12,521,833.16)
Services Rendered by Non-residents	-	(149,962.63)
Total	**(12,356,380.84)**	**(13,883,722.83)**
Total available input tax	(352,263,116.18)	(361,244,746.61)
Less: Deductions from input tax		
Input tax deferred for the succeeding period	40,750,054.97	37,778,636.72
VAT Refund/TCC claimed	-	-
Total	**40,750,054.97**	**37,778,636.72**
Total Allowable Input Tax	**(₱311,513,061.21)**	**(₱323,466,109.89)**
Net VAT Payable	**(₱306,610,968.80)**	**(₱318,788,532.87)**

	3rd Quarter	4th Quarter	Total
	(Exhibit "H")	*(Exhibit "I")*	
VATable Sales/Receipts	₱ 44,108,750.22	₱ 41,693,420.34	₱ 165,632,749.14
Zero-Rated Sales/Receipts	469,176,463.98	472,288,095.56	2,070,261,775.50
Total Sales/Receipts	**₱513,285,214.20**	**₱513,981,515.90**	**₱2,235,894,524.64**
Output tax due	**5,293,050.03**	**5,003,210.44**	**19,875,929.90**
Less: Allowable Input Tax			
From Previous Quarter	(318,788,532.87)	(328,100,952.19)	(295,512,396.01)
Deferred on Capital Goods from Previous Quarter	(37,778,636.72)	(35,962,005.19)	(44,394,339.33)
Current transactions			
Domestic Purchase of Capital Goods not exceeding ₱1M	(16,714.89)	-	(16,714.89)
Domestic Purchase of Capital Goods exceeding ₱1M	(1,950,154.61)	(4,641,891.50)	(7,285,445.41)
Domestic Purchase of Goods (other than Capital Goods)	(464,809.92)	(714,585.69)	(2,690,243.25)
Domestic Purchase of Services	(10,357,158.40)	(9,302,682.03)	(43,545,734.53)

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Services Rendered by Non-residents	-	(62,862.49)	(212,825.12)
Total	**(12,788,837.82)**	**(14,722,021.71)**	**(53,750,963.20)**
Total available input tax	(369,356,007.41)	(378,784,979.09)	(393,657,698.54)
Less: Deductions from input tax			
Input tax deferred for the succeeding period	35,962,005.19	36,736,866.21	36,736,866.21
VAT Refund/TCC claimed	-	-	-
Total	**35,962,005.19**	**36,736,866.21**	**36,736,866.21**
Total Allowable Input Tax	**(₱333,394,002.22)**	**(₱340,097,958.27)**	**(₱356,920,832.33)**
Net VAT Payable/(Overpayment)	**(₱328,100,952.19)**	**(₱337,044,902.44)**	**(₱337,044,902.44)**

As indicated in petitioner's VAT returns, petitioner's excess input VAT arising from its domestic purchases of capital goods not exceeding ₱1Million, domestic purchases of goods other than capital goods, domestic purchases of services and amortization of input VAT on purchases of capital goods exceeding ₱1Million for the four quarters of 2009 amounted to ₱61,408,436.33, broken down as follows:

	1st Quarter	**2nd Quarter**
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter	₱ 44,394,339.33	₱ 40,750,054.98
Add: Input Tax on Capital Goods exceeding ₱1 Million Purchased this Quarter	-	693,399.30
Total: Unamortized Input Tax on Capital Goods exceeding ₱1 Million	44,394,339.33	41,443,454.28
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	40,750,054.97	37,778,636.72
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	3,644,284.36	3,664,817.56
Add: Input Tax on:		
Purchase of Capital Goods not exceeding ₱1 Million	-	-
Domestic Purchases of Goods Other than Capital Goods	992,319.90	518,527.74
Domestic Purchase of Services	11,364,060.94	12,521,833.16
Services Rendered by Non-Residents	-	149,962.63
Total Allowable Input Tax Due	16,000,665.20	16,855,141.09
Less: Ouput Tax Due		
Excess Input Tax	**₱16,000,665.20**	**₱16,855,141.09**

	3rd Quarter	**4th Quarter**	**Total**
Input Tax Deferred on Capital Goods exceeding ₱1 Million from Previous Quarter	₱ 37,778,636.72	₱ 35,962,005.19	₱ 44,394,339.33
t: Input Tax on Capital Goods exceeding ₱1 Million Purchased this Quarter	1,950,154.61	4,641,891.50	7,285,445.41
Total: Unamortized Input Tax on Capital Goods exceeding ₱1 Million	39,728,791.33	40,603,896.69	51,679,784.74
Less: Input Tax on Purchases of Capital Goods exceeding ₱1 Million deferred for the succeeding period	35,962,005.19	36,736,866.21	36,736,866.21
Amortization of Input Tax on Capital Goods exceeding ₱1 Million	3,766,786.14	3,867,030.48	14,942,918.53
Add: Input Tax on:			
Purchase of Capital Goods not exceeding ₱1 Million	16,714.89	-	16,714.89
Domestic Purchases of Goods Other than Capital Goods	464,809.92	714,585.69	2,690,243.25

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Domestic Purchase of Services	10,357,158.40	9,302,682.03	43,545,734.53
Services Rendered by Non-Residents	-	62,862.49	212,825.12
Total Allowable Input Tax Due	14,605,469.35	13,947,160.69	61,408,436.33
Less: Ouput Tax Due			
Excess Input Tax	**₱14,605,469.35**	**₱13,947,160.69**	**₱61,408,436.33**

Out of the excess input VAT of ₱61,408,436.33, petitioner is claiming for the refund or issuance of tax credit certificate in the amount of ₱51,198,943.08, allegedly representing its excess and unutilized input VAT which are attributable to its zero-rated sales for the year 2009, broken down as follows:

2009	**INPUT VAT CLAIM**
1st Quarter	₱ 15,011,879.59
2nd Quarter	15,000,516.35
3rd Quarter	11,538,086.14
4th Quarter	9,648,461.00
TOTAL	**₱51,198,943.08**

Petitioner cites Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, as its basis in claiming for the refund or issuance of tax credit of its excess and unutilized input VAT which are attributable to its zero-rated or effectively zero-rated sales, to wit:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* -
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales."

Based on the aforequoted provision of law, the claimant must satisfy the following requisites in order to be entitled to a refund or tax credit of accumulated and unutilized input VAT which are attributable to zero-rated or effectively zero-rated sales:

1. There must be zero-rated or effectively zero-rated sales;

2. The input VAT were incurred or paid;

3. The input VAT are attributable to zero-rated or effectively zero-rated sales;

4. The input VAT were not applied against any output tax liability; and,

5. The administrative and judicial claims for refund were filed within the prescribed period.

Timeliness of the filing of the administrative and judicial claims

Before delving into the merits and substantiation of petitioner's claim for refund or tax credit of excess and unutilized input VAT in the amount of ₱51,198,943.08, the Court shall first resolve petitioner's compliance with the fifth requirement pertaining to the timeliness of the filing of the administrative and judicial claims.

Anent the petitioner's administrative claim, Section 112 (A) of the NIRC of 1997, as amended, specifically requires that the taxpayer's application for refund or tax credit certificate of unutilized or excess creditable input VAT arising from its domestic purchases of goods and services and importations, which are attributable to its zero-rated or effectively zero-rated sales, must be made within two years after the close of the taxable quarter when such sales were made. This was confirmed by the Supreme Court in the consolidated cases of **Commissioner of Internal Revenue vs. San Roque Power Corporation,** [24] **Taganito Mining Corporation vs. Commissioner of Internal Revenue,** [25] **and Philex Mining Corporation vs. Commissioner of Internal Revenue,**[26] *viz:*

[24] G.R. No. 187485, February 12, 2013.
[25] G.R. No. 196113, February 12, 2013.
[26] G.R. No. 197156, February 12, 2013.

> "**Section 112 (A) clearly, plainly, and unequivocally provides that the taxpayer "may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of the creditable input tax due or paid to such sales.**" In short, the law states that the taxpayer may apply with the Commissioner for a refund or credit "within two (2) years," which means at anytime within two years. Thus, **the application for refund or credit may be filed by the taxpayer with the Commissioner on the last day of the two-year prescriptive period and it will still strictly comply with the law.** The two-year prescriptive period is a grace period in favor of the taxpayer and he can avail of the full period before his right to apply for a tax refund or credit is barred by prescription." (Emphases supplied)

In this case, counting the two-year prescriptive period from the close of the four taxable quarters of 2009 when the relevant sales pertaining to the claimed input VAT were made, petitioner's administrative claim for refund or issuance of tax credit for the four (4) quarters of 2009, which was filed on November 2, 2010[27], was certainly filed within the two-year prescriptive period provided by law, as shown below:

Period /Quarter Covered	Close of Taxable Quarter	Last Day for Filing of Administrative Claim for Refund	Date of Filing of Administrative Claim for Refund
1st Quarter of 2009	March 31, 2009	March 31, 2011	November 2, 2010
2nd Quarter of 2009	June 30, 2009	June 30, 2011	
3rd Quarter of 2009	September 30, 2009	September 30, 2011	
4th Quarter of 2009	December 31, 2009	December 31, 2011	

The Court will now proceed to determine whether petitioner's judicial claim for refund or issuance of tax credit certificate was timely filed pursuant to Section 11 of Republic Act No. (RA) 1125[28], as amended by RA No. 9282[29], which provides the period of limitation within which to appeal before this Court, in relation to Section 112(D) of the NIRC of 1997, to wit:

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the

[27] Exhibit "X".

[28] An Act Creating the Court of Tax Appeals.

[29] 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.

> Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> Appeal should be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days** from the receipt of the decision or ruling or in the case of inaction as herein provided, **from the expiration of the period fixed by law to act thereon.** xxx" *(Emphasis supplied)*
>
> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> xxx xxx xxx
>
> (D) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A)** and (B) hereof.
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, **the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.**" *(Emphases supplied)*

It is significant to note that the Supreme Court, in the case of **Commissioner of Internal Revenue vs. Aichi Forging Company of Asia Inc.,**[30] emphasized the importance of the periods provided under Section 112(D) of the NIRC of 1997 in the determination of the timeliness of the filing of an appeal with this Court, thus:

> "Section 112(D) of the NIRC clearly provides that the CIR has '120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit],' within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to CTA within 30 days.

[30] G.R. No. 184823, October 6, 2010.

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Respondent's assertion that the non-observance of the 120-day period is not fatal to the filing of a judicial claim as long as both the administrative and the judicial claims are filed within the two-year prescriptive period has no legal basis.

xxx xxx xxx

In fact, applying the two-year period to judicial claims would render nugatory Section 112(D) of the NIRC, which already provides for a specific period within which a taxpayer should appeal the decision or inaction of the CIR. The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) when a decision is issued by the CIR before the lapse of the 120-day period; and (2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. **As we see it then, the 120-day period is crucial in filing an appeal with the CTA.** xxx." *(Emphasis supplied)*

Interestingly, respondent alleged in her Memorandum that this Court has no jurisdiction to entertain the instant Petition for Review because no valid administrative claim was filed with respondent on account of petitioner's failure to submit supporting documents relative to its administrative claim for tax refund.

According to respondent, Section 112 of the NIRC of 1997, as amended requires the submission of complete documents in support of the application filed with the BIR before the 120-day audit period shall apply, and before the taxpayer could avail of the judicial remedies.[31]

Contrary to respondent's allegation, records prove that petitioner was able to submit documents in support of its administrative claim for refund filed on November 2, 2010. Specifically, petitioner's administrative claim for refund[32] enumerated the supporting documents submitted by petitioner:

"In support of our request, we attach the following:

1. Application for Tax Credit/Refund (BIR Form No. 1914)
2. SEC Certificate of Registration as amended
3. Chevron's Articles of Incorporation
4. BIR Certificate of Registration (BIR Form No. 2303)

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[31] pp. 429-443, CTA Docket.
[32] Exhibit "X".

5. Annual Income Tax Return for taxable year 2009 (BIR Form No. 1702)
6. Quarterly VAT returns for taxable year 2009 (BIR Form No. 2550Q)
7. Monthly VAT returns for taxable year 2009 (BIR Form No. 2550M)
8. Audited Financial Statements for year ended December 31, 2009
9. Service Agreements with affiliates of Chevron
10. Certificate of Inward Remittance from JP Morgan Chase Bank N.A.
11. Summary List of Sales & Purchases (in DVD-R format)
12. Certification showing amount of zero-rated sales, taxable sales and exempt sales"

Furthermore, it must be noted that Revenue Memorandum Circular No. 029-09 states that:

> "III. *Period within which Refund or Tax Credit of Input Taxes shall be Made.*
>
> Section 112 (C) of the Tax Code of 1997, as amended by Republic Act No. 9337, provides among others, that in proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate (TCC) for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents.** For the purpose of defining 'proper cases' in the said provision, the taxpayer/claimant must have complied with the following conditions/requirements upon audit/verification of his/its claim:
>
> a. Submission of complete documents necessary to determine and/or ascertain the correctness of the return and the amount to be refunded/credited;
>
> b. That all books of accounts and accounting records pertaining to the claim are immediately available to the concerned Revenue Officer (RO) for audit/verification;
>
> c. Any discrepancies/findings upon audit/verification shall be reconciled/explained in writing by the taxpayer/claimant within five (5) days from receipt of the notification from the RO; and
>
> d. The taxpayer/claimant has signified his concurrence to the outcome of the audit/verification, which shall be evidenced by an Agreement Form.
>
> **In cases where taxpayer failed to comply with the above conditions/requirements**, *i.e.*, failure to present accounting books and records for audit/verification, additional documents to explain discrepancies/findings are not submitted, taxpayer refuses or incurs delay in the submission of the Agreement Form, **the running of the 120-day period shall stop from the date of notification to the**

> **taxpayer**. Likewise, the running of the 120-day period shall be suspended in case a question of law arises during the conduct of audit/verification and/or review of the claim for tax refund/credit, and the issue is referred to the Legal Division or the Legal Service, as the case may be, for resolution and issuance of legal opinion, which should be rendered within thirty (30) working days from receipt of the request." *(Emphasis supplied)*

Considering that there is nothing in the records showing that a written notice was sent by the BIR informing petitioner that the aforesaid documents are incomplete or requiring petitioner to submit additional documents, the 120-day period started and continued to run from November 2, 2010, the date when petitioner filed its administrative claim together with the supporting documents.

Since petitioner submitted to respondent its administrative claim for refund together with its supporting documents on November 2, 2010,[33] the 120-day period should be counted from the said date. Thus, respondent had 120 days from November 2, 2010, or until March 2, 2011, within which to grant or deny the administrative claim for refund. Considering, however, that respondent failed to act on the said claim within the 120-day period, petitioner had 30 days from the expiration of the 120-day period, or until April 1, 2011, within which to file its appeal before this Court. The instant Petition for Review filed on March 23, 2011 was clearly filed within the 30-day period provided by law to appeal.

<u>Existence of zero-rated sales</u>

Anent the first requisite, petitioner alleges that the services it rendered to its affiliates abroad are subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended, which states that:

> "SEC. 108. - *Value-added Tax on Sale of Services and Use or Lease of Properties.* -
>
> xxx xxx xxx
>
> (B) *Transactions Subject to Zero Percent (0%) Rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:
>
> (1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable

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[33] Exhibit "X".

> foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);
>
> (2) Services other than those mentioned in the preceding paragraph rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP);"

In the case of **Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.**[34] (*"Burmeister case"*), the Supreme Court enunciated that in order for the supply of services to be VAT zero-rated under Section 108(B)(2) of the NIRC of 1997, as amended, the claimant must be able to establish that: *(1) the services must be other than processing, manufacturing or repacking of goods; (2) the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations; and, (3) the recipient of such services is doing business outside the Philippines.* Pertinent pronouncements of the Supreme Court in the *Burmeister case* are quoted hereunder:

> "The Tax Code not only requires that the services be other than "processing, manufacturing or repacking of goods" and that payment for such services be in acceptable foreign currency accounted for in accordance with BSP rules. Another essential condition for qualification to zero-rating under Section 102 (b) (2) is that the **recipient of such services is doing business outside the Philippines**. While this requirement is not expressly stated in the second paragraph of Section 102 (b), this is clearly provided in the first paragraph of Section 102 (b) where the listed services must be **"for other persons doing business outside the Philippines."** The phrase "for other persons doing business outside the Philippines" not only refers to the services enumerated in the first paragraph of Section 102 (b), but also pertains to the general term "services" appearing in the second paragraph of Section 102 (b). In short, services other than processing, manufacturing, or repacking of goods must likewise be performed for persons doing business outside the Philippines.
>
> This can only be the logical interpretation of Section 102 (b) (2). If the provider and recipient of the "other services" are both doing business in the Philippines, the payment of foreign currency is irrelevant. Xxx xxx xxx.
>
> When Section 102(b)(2) stipulates payment in "acceptable foreign currency" under BSP rules, the law clearly envisions the payer-recipient of services to be doing business outside the Philippines. Only those not doing business in the Philippines can be required under BSP

[34] G.R. No. 153205, January 22, 2007.

rules to pay in acceptable foreign currency for their purchase of goods or services from the Philippines. In a domestic transaction, where the provider and recipient of services are both doing business in the Philippines, the BSP cannot require any party to make payment in foreign currency.

Services covered by Section 102 (b) (1) and (2) are in the nature of export sales since the payer-recipient of services is doing business outside the Philippines. Under BSP rules, the proceeds of export sales must be reported to the *Bangko Sentral ng Pilipinas.* Thus, there is reason to require the provider of services under Section 102 (b) (1) and (2) to account for the foreign currency proceeds to the BSP. The same rationale does not apply if the provider and recipient of the services are both doing business in the Philippines since their transaction is not in the nature of an export sale even if payment is denominated in foreign currency.

Further, when the provider and recipient of services are **both** doing business in the Philippines, their transaction falls squarely under Section 102 (a) governing **domestic** sale or exchange of services. Indeed, this is a purely local sale or exchange of services subject to the regular VAT, unless of course the transaction falls under the other provisions of Section 102 (b).

Thus, when Section 102 (b) (2) speaks of **"[s]ervices other than those mentioned in the preceding subparagraph,"** the legislative intent is that only the services are different between subparagraphs 1 and 2. The requirements for zero-rating, including the essential condition that the recipient of services is doing business outside the Philippines, remain the same under both subparagraphs.

Significantly, the amended Section 108 (b) [previously Section 102 (b)] of the present Tax Code clarifies this legislative intent. Expressly included among the transactions subject to 0% VAT are "[s]ervices other than those mentioned in the [first] paragraph [of Section 108 (b)] rendered to a person engaged in business conducted outside the Philippines or to a nonresident person not engaged in business who is outside the Philippines when the services are performed, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the BSP."

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The Court recognizes the rule that the VAT system generally follows the "destination principle" (exports are zero-rated whereas imports are taxed). However, as the Court stated in American Express, there is an exception to this rule. This exception refers to the 0% VAT on services enumerated in Section 102 and performed in the Philippines. For services covered by Section 102 (b) (1) and (2), the recipient of the services must be a person doing business outside the Philippines. Thus, to be exempt from the destination principle under Section 102 (b) (1) and (2), the services must be (a) performed in the Philippines; (b) for a person doing business outside the Philippines; and

(c) paid in acceptable foreign currency accounted for in accordance with BSP rules."

In relation to the requirement that the payment for such services must be in acceptable foreign currency accounted for in accordance with the BSP rules and regulations, it is worthy to note that Sections 113(A)(2), (B)(1), (2)(c) and (3) of the NIRC of 1997, as amended, and as implemented by Sections 4.113-1(A)(2), B(1) and (2)(c) of Revenue Regulations (RR) No. 16-05, provide that a VAT taxpayer, like herein petitioner, shall for every lease of goods or properties and for every sale, barter or exchange of services, issue a VAT official receipt which must contain the following information:

"SEC. 113. *Invoicing and Accounting Requirements for VAT-registered Persons.* -

(A) *Invoicing Requirements.* - A VAT-registered person shall issue:

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and **for every sale, barter or exchange of services**.

(B) *Information Contained in the VAT Invoice or VAT Official Receipt.* - The following information shall be indicated in the VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his Taxpayer's Identification Number (TIN);

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax: *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) value-added tax, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;

xxx xxx xxx

(3) The date of transaction, quantity, unit cost and description of the goods or properties or nature of the service; and" *(Emphases supplied).*

"SEC. 4.113-1. ***Invoicing Requirements.*** –

(A) ***A VAT-registered person shall issue:*** -

xxx xxx xxx

(2) A **VAT official receipt** for every lease of goods or properties, and for every sale, barter or exchange of services.

Only VAT-registered persons are required to print their **TIN followed by the word 'VAT' in their invoice** or official receipts. Said documents shall be considered as a 'VAT Invoice' or 'VAT official' receipt. All purchases covered by invoices/receipts other than VAT Invoice/VAT Official Receipt shall not give rise to any input tax.

VAT invoice/official receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records.

(B) ***Information contained in VAT invoice or VAT official receipt.*** - The following information shall be indicated in VAT invoice or VAT official receipt:

(1) A statement that the seller is a VAT-registered person, followed by his TIN;

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the VAT; *Provided*, That:

xxx xxx xxx

(c) If the sale is subject to zero percent (0%) VAT, the term **'zero-rated sale'** shall be written or printed prominently on the invoice or receipt;" *(Emphases supplied)*

Hence, pursuant to the foregoing provisions, the foreign currency remittances referred to under Section 108(B)(2) of the NIRC of 1997, as amended, must likewise be supported by VAT zero-rated official receipts.

The Court shall now proceed to determine petitioner's compliance with the three requisites enunciated by the Supreme Court in the *Burmeister case.*

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Anent the *first requisite*, it is undisputed that petitioner is duly registered with the BIR as a VAT taxpayer[35] and it renders the following services in the Philippines, through ROHQ, to wit: general administration and planning; business planning and coordination; sourcing and procurement of raw materials and components; corporate finance advisory services; marketing control and sales promotion; training and personnel management; logistics services; research and development services and product development; technical support and maintenance; data processing and communication; and business development.[36] The Court finds that aforesaid services are not in the same category as "processing, manufacturing or repacking of goods".

With regard to the *second requisite*, records reveal that for services rendered for the four taxable quarters of 2009, petitioner received US dollar payments with the peso equivalent of ₱2,070,253,775.02,[37] which were accounted for in accordance with the BSP rules and regulations as evidenced by the bank certification of inward remittances[38] issued by JP Morgan Chase Bank N.A and duly supported by VAT zero-rated official receipts[39] issued by petitioner to its affiliate-clients.

Relative to the *third requisite*, to prove that petitioner's affiliate-clients are non-resident foreign corporations doing business outside the Philippines, petitioner presented Certifications of Non-Registration of Corporation/Partnership issued by the SEC of the Republic of the Philippines, Service Agreements, Articles of Association, Articles/Certificate of Incorporation, and printed screenshots of the United States SEC website for company filings of Chevron Corporation, enumerated as follows:

Name of Affiliate	SEC Certificates of Non-Registration (Exhibit)	Service Agreements (Exhibit)	Certificate/ Articles of Association/ Incorporation (Exhibit)	State, Province or Country in which organized per printed screenshots of U.S. SEC website (Exhibit "U")
Cabinda Gulf Oil Co. LTD	C – 30			Bermuda
Caltex Oil Products Co.	C		T	

[35] Par. 5, Admissions, JSFI; p. 195, CTA Docket.
[36] Par. 6, Admissions, JSFI; pp. 195-196, CTA Docket.
[37] Exhibit "EE", annexed to Exhibit "Y".
[38] Exhibits "B" to "B-4".
[39] Exhibits "UU-1" to "UU-463".

Caltex Oil Zambia LTD	C – 31			
Caltex Transport and Trading Corp	C – 32			
CGEI - Global Downstream Cost Allocation				
Chevron (China) Investment Co.				
Chevron (Mauritius) Limited	C – 86		T-20	
Chevron Africa Holdings Limited	C-33			
Chevron Africa-Pakistan Services	C-34			
Chevron ALKHALIJ TRADING	C-10			
Chevron Asia South LTD	C-35			
Chevron Australia PTY LTD	C-1			Australia
Chevron Bahrain	C-36			
Chevron Bangladesh	C-73			
Chevron Bangladesh BLK Twelve	C-74			
Chevron Benin SA	C-37			
Chevron Business Real Estate SVCS	C-38			
Chevron Business Support Center	C-39			
Chevron Cambodia LTD	C-40			
Chevron Canada LTD	C-11			Canada
Chevron China Investment Co. LTD	C – 75			
Chevron Congo SA	C-105			
Chevron Corporation	C-101			
Chevron Cote D. Ivoire				
Chevron Egypt Lubricants SAE	C-106			
Chevron Egypt SAE	C-2		T-1	
Chevron Energy Technology Company	C-14			
Chevron Environmental Mngt Co.	C-42			California
Chevron Exploration and Production	C-107			
Chevron Geothermal Indonesia LTD	C-76			Bermuda
Chevron Geothermal Salak LTD	C-43			
Chevron Global Downstream	C-3			
Chevron Global Downstream LLC	C-77			
Chevron Global Gas	C-78			
Chevron Global Lubricants	C-44			
Chevron Global Technology Services	C-18			
Chevron Gulf Oil LTD				
Chevron Holdings Inc. – Taiwan	C-19			
Chevron HongKong LTD	C-79			
Chevron Indonesia Co.	C-45			
Chevron Information Tech Co	C-46			
Chevron International EP Tech Service	C-47			
Chevron International Exploration	C-20			
Chevron International Gas Inc	C-49			
Chevron International LTD	C-80			
Chevron International PTE LTD	C-81			

Chevron Intl E&P Tech Services	C-47			
Chevron Intl Exploration Production	C-109			
Chevron Intl Gas Inc Japan Branch				
Chevron Intlt PE Tech LTD				
Chevron Japan LTD	C-82		T-18	
Chevron Kenya LTD	C-21			
Chevron Korea Inc	C-110			
Chevron Kuo Pte LTD	C-51			
Chevron Limited	C-22		T-9	
Chevron Lubricants Egypt	C-83			
Chevron Lubricants Lanka LTD	C-4			
Chevron Lubricants Vietnam LTD	C-52			
Chevron Malampaya LLC				
Chevron Malawi LTD	C-53			
Chevron Malaysia LTD	C-84		T-19	
Chevron Marine Products LLC	C-85			Delaware
Chevron NA Explo Prod Co.	C-54			
Chevron Netherlands BV	C-55			
Chevron New Zealand	C-87			New Zealand
Chevron North Sea LTD	C-23			
Chevron Offshore (Thailand) LTD				
Chevron Oil Nigeria				
Chevron Oronite Co. LLC	C-26			Delaware
Chevron Oronite Intl Trading Co				
Chevron Oronite PTE LTD	C-111			Singapore
Chevron Pakistan LTD	C-56			Bahamas
Chevron Petroleum India PVT LTD	C-89			
Chevron Pipe Line Company	C-57			Delaware
Chevron Policy Govt Public Affairs	C-58			
Chevron Products Company	C-90			
Chevron Puerto Rico LLC	C-91			
Chevron Remittance Processing	C-59			
Chevron Reunion LTD	C-92			
Chevron Services Company	C-9	S-1		
Chevron Shipping Co. LLC	C-27			
Chevron Singapore PTE LTD	C-112			
Chevron South Africa PTY LTD	C-5, C-94			
Chevron South Asia LTD				
Chevron Tankers LTD	C-6		T-3	
Chevron Tanzania LTD	C-61			
Chevron Texaco Corporation	C-7, C-113			
Chevron Texaco China Energy Co.	C-8		T-4	
Chevron Texaco Malampaya LLC				
Chevron Texaco ME/NA Inc.	C-103			

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Chevron Thailand Exploration and Prod	C-114			
Chevron Thailand LTD	C-95		T-22	Bahamas
Chevron Tianjin Lubricants Co.	C-115			
Chevron Tianjin Lubricants Co. LTD	C - 62			
Chevron Togo SA	C-96			
Chevron Trading PTE LTD	C-104			
Chevron Transport and Trading Corp				
Chevron Uganda LTD	C-63			
Chevron USA Singapore Branch	C-97	S-11		
Chevron Vietnam Block LTD	C-64			
CUSA - Global Lubricants Asia PAC	C-66			
CXA Exports SARL	C-72			
NNPC/Chevron Joint Venture	C-67			
Projects Resources Company	C-68			
Pt. Chevron Pacific Indonesia	C-99		T-23	Indonesia
Star Holding Company LTD	C-69		T-14	
Texaco Cameroun	C-70			
UIC CIEP Branch	C-100			
Unocal East China Sea LTD	C-71			

Notably, each of the aforesaid documents, standing alone, is inadequate proof that petitioner's clients are non-resident foreign corporations doing business outside the Philippines. **While the SEC Certificates of Non-Registration[40] show that the entities named therein are not registered corporations/partnerships in the Philippines, the same do not prove that such entities are non-resident foreign corporations doing business outside the Philippines.**

Likewise, the service agreements only indicate the names of petitioner's customers to whom petitioner renders services but the same do not establish that such customers are non-resident foreign corporations doing business outside the Philippines.

Furthermore, the Articles of Association, Articles/Certificates of Incorporation and printed screenshots of the United States SEC website for company filings of Chevron Corporation only prove that the entities named therein were incorporated/organized abroad but they do not establish that such entities are not doing business in the Philippines.

Hence, in order to be considered as non-resident foreign corporation doing business outside the Philippines, each entity must be supported at the very least by **both** SEC Certificate of Non-Registration of Corporation

[40] Exhibits "C" to "C-115".

/Partnership **and** Certificates/Articles of foreign incorporation/association _or_ printed screenshots of US SEC website showing the state/province/country where the entity was organized.

After carefully reviewing the above-enumerated exhibits of petitioner, the Court finds that only the following clients of petitioner shall be considered as non-resident foreign corporations doing business outside the Philippines:

Name of Affiliate	SEC Certificates of Non-Registration (Exhibit)	Certificate/ Articles of Association/ Incorporation (Exhibit)	State, Province or Country in which organized per printed screenshots of U.S. SEC website (Exhibit "U")
Cabinda Gulf Oil Co. LTD	C - 30		Bermuda
Caltex Oil Products Co.	C	T	
Chevron (Mauritius) Limited	C - 86	T-20	
Chevron Australia PTY LTD	C-1		Australia
Chevron Canada LTD	C-11		Canada
Chevron Egypt SAE	C-2	T-1	
Chevron Environmental Mngt Co.	C-42		California
Chevron Geothermal Indonesia LTD	C-76		Bermuda
Chevron Japan LTD	C-82	T-18	
Chevron Limited	C-22	T-9	
Chevron Malaysia LTD	C-84	T-19	
Chevron Marine Products LLC	C-85		Delaware
Chevron New Zealand	C-87		New Zealand
Chevron Oronite Co. LLC	C-26		Delaware
Chevron Oronite PTE LTD	C-111		Singapore
Chevron Pakistan LTD	C-56		Bahamas
Chevron Pipe Line Company	C-57		Delaware
Chevron Tankers LTD	C-6	T-3	
Chevron Texaco China Energy Co.	C-8	T-4	
Chevron Thailand LTD	C-95	T-22	Bahamas
Pt. Chevron Pacific Indonesia	C-99	T-23	Indonesia
Star Holding Company LTD	C-69	T-14	

Accordingly, only the sales of services by petitioner to the afore-mentioned entities for the year 2009 in the amount of ₱409,127,980.26 shall be subject to zero percent (0%) VAT pursuant to Section 108(B)(2) of the NIRC of 1997, as amended. The amount of ₱409,127,980.26 is broken down as follows:

OR No.	OR Date	Name of Affiliate	Sales (in USD)	Sales (in Php)	Exhibit
First Quarter of 2009					
JANUARY					
1193	05-Jan-09	Chevron Texaco China Energy Co.	567.81	26,974.35	UU-4
1203	23-Jan-09	Cabinda Gulf Oil Co. LTD	184,246.18	8,744,479.35	UU-14
1208	23-Jan-09	Chevron Australia PTY LTD	1,551.10	73,616.52	UU-19
1212	23-Jan-09	Chevron Texaco China Energy Co.	312.38	14,825.82	UU-23
1207	23-Jan-09	Pt. Chevron Pacific Indonesia	1,630.58	77,388.70	UU-18
1235	26-Jan-09	Caltex Oil Products Co.	8,202.58	387,645.56	UU-45
1241	26-Jan-09	Chevron Limited	904.74	42,757.09	UU-51
1232	26-Jan-09	Chevron Oronite Co. LLC	15,874.22	750,199.44	UU-42
1249	26-Jan-09	Chevron Oronite PTE LTD	265.07	12,526.94	UU-59
1218	27-Jan-09	Chevron Canada LTD	5,100.72	241,168.79	UU-29
1221	27-Jan-09	Chevron Environmental Mngt Co.	318.60	15,063.83	UU-31
1228	27-Jan-09	Chevron Limited	57,240.28	2,705,117.20	UU-38
1216	27-Jan-09	Chevron Tankers LTD	13,893.48	656,902.13	UU-27
1222	27-Jan-09	Chevron Tankers LTD	301.58	14,259.10	UU-32
1214	27-Jan-09	Chevron Thailand LTD	189,026.84	8,937,439.24	UU-25
1215	27-Jan-09	Star Holding Co. LTD	112,979.43	5,341,817.02	UU-26
FEBRUARY					
1257	17-Feb-09	Chevron Japan LTD	603.16	28,357.31	UU-66
1260	20-Feb-09	Chevron Egypt SAE	1,456.54	68,704.72	UU-69
1283	23-Feb-09	Chevron Pakistan LTD	2,048,352.95	97,960,447.15	UU-91
1293	24-Feb-09	Chevron Australia PTY LTD	1,214.40	58,497.11	UU-101
1292	24-Feb-09	Chevron Malaysia LTD	76,552.90	3,687,519.27	UU-100
1266	25-Feb-09	Chevron New Zealand	179,507.87	8,642,651.42	UU-74
1270	25-Feb-09	Chevron Thailand LTD	106,758.56	5,140,036.59	UU-78
1287	26-Feb-09	Cabinda Gulf Oil Co. LTD	3,565.71	171,263.69	UU-95
1288	26-Feb-09	Chevron (Mauritius) Limited	860.58	41,334.29	UU-96
1286	26-Feb-09	Star Holding Co. LTD	82,463.70	3,960,792.51	UU-94
MARCH					
1323	25-Mar-09	Cabinda Gulf Oil Co. LTD	4,900.93	234,831.34	UU-130
1313	25-Mar-09	Chevron New Zealand	192,215.41	9,210,129.85	UU-120
1307	26-Mar-09	Chevron Canada LTD	2,383.04	114,239.69	UU-114
1304	26-Mar-09	Chevron Malaysia LTD	80,405.28	3,854,519.65	UU-111
1305	26-Mar-09	Chevron Oronite Co. LLC	14,920.47	715,267.02	UU-112
1310	26-Mar-09	Chevron Pipe Line Company	161.57	7,745.45	UU-117
1303	26-Mar-09	Chevron Thailand LTD	106,654.70	5,112,881.11	UU-110
1302	26-Mar-09	Star Holding Co. LTD	82,463.70	3,966,507.94	UU-109
1300	27-Mar-09	Chevron Pakistan LTD	24,577.53	1,179,344.05	UU-107
1299	30-Mar-09	Chevron Australia PTY LTD	5,407.31	260,467.73	UU-106
			Subtotal	**172,457,718.97**	
Second Quarter of 2009					
APRIL					
1334	23-Apr-09	Chevron Australia PTY LTD	11,904.59	575,378.93	UU-141
1337	23-Apr-09	Chevron Australia PTY LTD	983.13	47,517.16	UU-144
1336	23-Apr-09	Chevron Limited	1,648.89	79,695.02	UU-143

1340	24-Apr-09	Cabinda Gulf Oil Co. LTD	242,805.14	11,792,381.74	UU-147
1345	24-Apr-09	Chevron Texaco China Energy Co.	983.13	47,747.94	UU-152
1375	27-Apr-09	Chevron Environmental Mngt Co.	1,991.26	96,475.78	UU-181
1368	27-Apr-09	Chevron Malaysia LTD	39,465.11	1,912,069.77	UU-175
1364	27-Apr-09	Chevron New Zealand	115,497.53	5,595,810.56	UU-171
1378	27-Apr-09	Chevron Pipe Line Company	1,103.92	53,484.50	UU-184
1367	27-Apr-09	Chevron Thailand LTD	47,629.79	2,307,644.86	UU-174
1388	27-Apr-09	Pt. Chevron Pacific Indonesia	659.55	31,954.94	UU-193
1366	27-Apr-09	Star Holding Co. LTD	84,999.68	4,118,201.55	UU-173
1371	27-Apr-09	Chevron Pakistan LTD	4,596.27	222,687.50	UU-178
1352	28-Apr-09	Chevron Canada LTD	5,305.33	257,041.18	UU-159
1361	28-Apr-09	Chevron Geothermal Indonesia	659.55	31,954.94	UU-168
1350	28-Apr-09	Chevron Oronite Co. LLC	40,643.95	1,969,183.62	UU-157
1358	28-Apr-09	Chevron Tankers LTD	983.13	47,632.27	UU-165
1359	28-Apr-09	Chevron Tankers LTD	842.45	39,944.28	UU-166
MAY					
1390	15-May-09	Chevron Japan LTD	1,966.26	92,529.88	UU-194
1394	20-May-09	Chevron Australia PTY LTD	43,379.74	2,054,937.94	UU-198
1395	20-May-09	Chevron Australia PTY LTD	983.13	46,571.77	UU-199
1396	25-May-09	Chevron Pakistan LTD	2,055.04	96,526.07	UU-200
1400	26-May-09	Chevron New Zealand	189,566.77	8,874,848.78	UU-204
1408	26-May-09	Chevron Oronite Co. LLC	21,046.56	985,325.84	UU-212
1403	26-May-09	Chevron Thailand LTD	112,853.10	5,283,384.83	UU-207
1423	27-May-09	Chevron (Mauritius) Limited	561.39	26,381.11	UU-227
1419	27-May-09	Chevron Malaysia LTD	89,584.25	4,209,786.18	UU-223
1418	27-May-09	Star Holding Co. LTD	110,290.07	5,182,804.04	UU-222
JUNE					
1429	19-Jun-09	Chevron Egypt SAE	980.49	47,252.53	UU-232
1445	25-Jun-09	Chevron New Zealand	195,895.64	9,445,305.69	UU-248
1450	25-Jun-09	Chevron Thailand LTD	103,863.72	5,007,893.92	UU-253
1448	25-Jun-09	Star Holding Co. LTD	110,251.49	5,315,886.69	UU-251
1439	26-Jun-09	Chevron Canada LTD	2,724.80	130,937.05	UU-242
1435	26-Jun-09	Chevron Malaysia LTD	82,487.95	3,963,861.12	UU-238
1436	26-Jun-09	Chevron Oronite Co. LLC	27,928.47	1,342,069.68	UU-239
1440	26-Jun-09	Chevron Pakistan LTD	2,055.04	98,752.52	UU-243
			Subtotal	**81,431,862.18**	
Third Quarter of 2009					
JULY					
1467	21-Jul-09	Chevron Australia PTY LTD	3,265.89	156,412.36	UU-270
1494	23-Jul-09	Chevron Geothermal Indonesia LTD	766.59	36,714.08	UU-297
1495	23-Jul-09	Pt. Chevron Pacific Indonesia	766.59	36,714.08	UU-298
1500	24-Jul-09	Chevron Limited	1,916.48	91,741.50	UU-303
1496	24-Jul-09	Chevron New Zealand	263,379.92	12,607,942.56	UU-299
1477	27-Jul-09	Chevron Malaysia LTD	56,367.06	2,704,753.36	UU-280
1479	27-Jul-09	Chevron Oronite Co. LLC	42,954.68	2,061,165.07	UU-282
1476	27-Jul-09	Chevron Thailand LTD	63,150.18	3,030,238.96	UU-279
1485	27-Jul-09	Chevron Pakistan LTD	8,190.71	393,028.31	UU-288
1471	28-Jul-09	Chevron Tankers LTD	958.24	45,958.75	UU-274

1468	28-Jul-09	Star Holding Co. LTD	32,322.32	1,550,231.18	UU-271
AUGUST					
1529	24-Aug-09	Chevron (Mauritius) Limited	652.48	31,551.26	UU-332
1537	24-Aug-09	Chevron Australia PTY LTD	8,406.04	406,481.62	UU-340
1538	24-Aug-09	Chevron Egypt SAE	1,159.47	56,067.21	UU-341
1526	25-Aug-09	Cabinda Gulf Oil Co. LTD	3,877.06	186,486.77	UU-329
1513	25-Aug-09	Chevron New Zealand	242,454.16	11,662,056.76	UU-316
1523	25-Aug-09	Chevron Oronite Co. LLC	33,604.35	1,616,370.85	UU-326
1517	25-Aug-09	Chevron Thailand LTD	127,330.41	6,124,598.85	UU-320
1518	25-Aug-09	Star Holding Co. LTD	114,016.44	5,484,196.25	UU-321
1531	26-Aug-09	Chevron Limited	60,060.60	2,919,815.26	UU-334
1530	26-Aug-09	Chevron Malaysia LTD	103,521.78	5,032,658.24	UU-333
1535	26-Aug-09	Chevron Tankers LTD	637.31	30,982.50	UU-338
SEPTEMBER					
1539	04-Sep-09	Chevron Marine Products LLC	983.13	47,771.14	UU-342
1544	22-Sep-09	Chevron Australia PTY LTD	8,833.78	420,856.60	UU-347
1562	25-Sep-09	Cabinda Gulf Oil Co. LTD	3,830.56	180,942.84	UU-365
1560	25-Sep-09	Chevron Limited	8,782.82	414,871.04	UU-363
1549	25-Sep-09	Chevron New Zealand	204,180.88	9,644,821.92	UU-352
1552	25-Sep-09	Chevron Thailand LTD	113,274.88	5,350,726.50	UU-355
1553	25-Sep-09	Star Holding Co. LTD	72,201.30	3,410,547.95	UU-356
1567	28-Sep-09	Chevron Canada LTD	14,679.95	692,777.25	UU-370
1564	28-Sep-09	Chevron Malaysia LTD	89,570.64	4,227,024.07	UU-367
1568	28-Sep-09	Chevron Oronite Co. LLC	9,750.12	460,128.36	UU-371
			Subtotal	**81,116,633.45**	
Fourth Quarter of 2009					
OCTOBER					
1577	16-Oct-09	Chevron Geothermal Indonesia LTD	757.69	35,094.49	UU-380
1579	21-Oct-09	Pt. Chevron Pacific Indonesia	757.69	35,274.21	UU-382
1583	23-Oct-09	Cabinda Gulf Oil Co. LTD	155,932.50	7,249,302.65	UU-386
1584	23-Oct-09	Chevron Australia PTY LTD	4,804.82	223,376.10	UU-387
1585	23-Oct-09	Chevron Limited	3,666.33	170,447.70	UU-388
1586	23-Oct-09	Chevron Limited	1,894.22	88,062.30	UU-389
1582	23-Oct-09	Chevron New Zealand	186,684.34	8,678,955.83	UU-385
1621	26-Oct-09	Chevron Environmental Mngt Co.	250.00	11,853.96	UU-420
1628	27-Oct-09	Chevron Canada LTD	1,889.77	88,430.98	UU-427
1623	27-Oct-09	Chevron Malaysia LTD	27,410.50	1,282,662.61	UU-422
1626	27-Oct-09	Chevron Oronite Co. LLC	12,045.85	563,680.39	UU-425
1624	27-Oct-09	Chevron Tankers LTD	12,841.69	600,921.39	UU-423
1589	28-Oct-09	Chevron Thailand LTD	33,811.23	1,588,127.29	UU-392
1590	28-Oct-09	Chevron Pakistan LTD	4,339.09	203,808.83	UU-393
1592	29-Oct-09	Star Holding Co. LTD	80,532.06	3,809,463.58	UU-395
NOVEMBER					
1636	25-Nov-09	Chevron New Zealand	238,349.84	11,169,158.39	UU-435
1639	25-Nov-09	Chevron Thailand LTD	142,761.12	6,689,836.93	UU-438
1644	26-Nov-09	Chevron (Mauritius) Limited	640.30	30,075.15	UU-443
DECEMBER					
1645	10-Dec-09	Chevron Egypt SAE	1,137.55	52,494.23	UU-444

1650	22-Dec-09	Chevron New Zealand	224,458.68	10,454,526.32	UU-449
1656	23-Dec-09	Chevron Malaysia LTD	179,141.28	8,328,278.94	UU-455
1659	23-Dec-09	Chevron Thailand LTD	120,891.07	5,620,226.41	UU-458
1658	23-Dec-09	Star Holding Co. LTD	143,212.42	6,657,946.07	UU-457
1663	28-Dec-09	Chevron Australia PTY LTD	10,549.45	489,760.91	UU-462
			Subtotal	**74,121,765.66**	
Total Valid Zero-Rated Sales for the 1st, 2nd, 3rd and 4th quarter of 2009				***409,127,980.26***	

The rest of petitioner's alleged zero-rated sales in the amount of ₱1,661,133,795.24 (₱2,070,261,775.50 less ₱409,127,980.26) shall not be considered by the Court as zero-rated sales as petitioner failed to prove that the entities to whom it rendered services are non-resident foreign corporations doing business outside the Philippines.

Input VAT paid or incurred which are attributable to zero-rated sales

As afore-discussed, petitioner had valid VAT zero-rated sales for the four quarters of 2009 in the amount of ₱409,127,980.26, therefore, the Court shall determine the amount of input VAT paid or incurred which are attributable thereto.

In support of its reported input VAT of ₱61,408,436.33, petitioner presented various invoices, official receipts and other documents[41] which were all examined by the Court-commissioned Independent CPA, Atty. Fredieric B. Landicho. In his Report dated February 20, 2012,[42] Atty. Landicho accounted for a total amount of ₱62,393,685.02 input VAT, broken down as follows:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Valid Input VAT on Purchases of Services and Goods other than Capital Goods[43]	₱ 8,333,882.41	₱ 11,840,107.27	₱ 9,034,148.40	₱ 8,524,816.40	₱ 37,732,954.48
Valid Input VAT on Purchases of Capital Goods [44]	3,409,981.83	3,519,744.91	3,334,405.36	3,419,183.14	13,683,315.25
Exceptions on Petitioner's Input VAT on Purchases of Services and Goods other than Capital Goods [45]	5,225,862.81	1,139,562.70	1,888,149.73	1,545,479.32	9,799,054.56
Exceptions on Petitioner's Input VAT on Purchases of Capital Goods[46]	288,180.59	308,028.32	288,180.59	293,971.23	1,178,360.73
Total	**₱17,257,907.64**	**₱16,807,443.20**	**₱14,544,884.08**	**₱13,783,450.09**	**₱62,393,685.02**

[41] Exhibits "QQ-1" to "QQ-3932" and "RR-1" to "RR-1002".
[42] Exhibits "Y", "Y-2", and "Y-3".
[43] Exhibit "AA" attached to Exhibit "Y".
[44] Exhibit "BB" attached to Exhibit "Y".
[45] Exhibit "CC" attached to Exhibit "Y".
[46] Exhibit "DD", attached to Exhibit "Y".

Petitioner reflected in its 2009 Quarterly VAT Returns the following input taxes in the total amount of ₱61,408,436.33:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Total Input VAT per Return	₱16,000,665.20	16,855,141.09	14,605,469.35	13,947,160.69	**₱61,408,436.33**

It is significant to note, however, that the amount of petitioner's claim for refund or tax credit certificate is only ₱51,198,943.08, computed based on the lower input VAT of ₱55,273,889.14, as shown below:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
VATable Sales	₱ 40,850,770.05	₱ 38,979,808.53	₱ 44,108,750.22	₱ 41,693,420.43	₱ 165,632,749.23
Zero-Rated Sales	620,201,395.33	508,595,820.63	469,178,463.98	472,288,095.56	2,070,263,775.50
Total Sales	₱ 661,052,165.38	₱ 547,575,629.16	₱ 513,287,214.20	₱ 513,981,515.99	₱2,235,896,524.73
% of Zero-rated Sales/Total Sales	94%	93%	91%	92%	
Input tax	**₱16,000,666.21**	**₱16,150,186.15**	**₱12,622,813.17**	**₱10,500,223.61**	**₱ 55,273,889.14**
Input tax attributable to zero-rated sales	**₱ 15,011,879.59**	**₱ 15,000,516.35**	**₱ 11,538,086.14**	**₱ 9,648,461.00**	**₱ 51,198,943.08**

Since petitioner cannot be granted a refund or issued a tax credit certificate in an amount exceeding the amount prayed for in the Petition for Review and declared in its Quarterly VAT Returns, the Court shall use as reference point the lowest of the three figures, namely, the input VAT per petitioner's claim, the input VAT as reflected in its 2009 Quarterly VAT Returns and the input VAT as verified by the Independent CPA, in determining the amount to be refunded or the tax credit certificate to be issued in favor of petitioner, as shown below:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Total Input VAT Claim	16,000,666.21	16,150,186.15	12,622,813.17	10,500,223.61	55,273,889.14
Total Input VAT per Return	16,000,665.20	16,855,141.09	14,605,469.35	13,947,160.69	61,408,436.33
Total Input VAT per ICPA Findings	17,257,907.64	16,807,443.20	14,544,884.08	13,783,450.09	62,393,685.02
Should-be Basis of Refundable Claim	**16,000,665.20**	**16,150,186.15**	**12,622,813.17**	**10,500,223.61**	**55,273,888.13**

Based on the Independent CPA's review and validation of petitioner's claimed input VAT, the Independent CPA noted the following exceptions amounting to ₱10,977,415.30:

Exceptions on Petitioner's Claimed Input VAT on Purchases of Services and Goods other than Capital Goods (Exhibits "SS-1" to "SS-472")					
	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Non VAT sales invoices and/or official receipts	₱ 4,396.95	₱ 240.00	₱ 171.75	₱ 4,833.21	₱ 9,641.91
No sales invoices and/or official receipts	1,938,400.58	876,779.55	413,055.48	20,028.19	3,248,263.80

Sales invoices and/or official receipts are dated outside the period of claim	469,662.47	-	-	414.43	470,076.90
Purchases evidenced by tape receipts not in the name of petitioner	321.42	13,004.99	52,271.99	93,770.78	159,369.18
Sales invoices and/or official receipts not in the name of petitioner	-	37,379.51	34,771.64	6,480.00	78,631.15
Sales invoices and/or official receipts have no BIR permit to print	1,802.36	1,949.70	5,480.29	6,721.31	15,953.66
Difference on computation of input VAT	48,865.68	34,686.23	23,069.04	18,149.59	124,770.54
Erroneous TIN and registered address	2,762,413.35	33,274.76	1,353,753.65	1,310,395.14	5,459,836.90
Supported by photocopies of sales invoices and/or official receipts	-	48,490.51	-	30,417.86	78,908.37
No supporting documents	-	7,101.46	5,575.89	54,268.81	66,946.16
Unsupported input VAT on payments to non-residents	-	86,655.99	-	-	86,655.99
Subtotal	**₱5,225,862.81**	**₱1,139,562.70**	**₱1,888,149.73**	**₱1,545,479.32**	**₱9,799,054.56**
Exceptions on Petitioner's Claimed Input VAT on Purchases of Capital Goods (Exhibits "TT-1" to "TT-20")					
No supporting invoices	-	₱ 3,684.83	-	₱ 5,201.86	₱ 8,886.69
Sales invoices and/or official receipts are dated outside the period claim	-	1,280.00	-	256.25	1,536.25
D[illegible]ble claim (included in the purchase of services)	-	-	-	332.53	332.53
[illegible]owed amortization of Input VAT on capital goods for prior years	₱ 288,180.59	288,180.59	₱ 288,180.59	288,180.59	1,152,722.36
No supporting documents	-	14,882.90	-	-	14,882.90
Subtotal	**₱ 288,180.59**	**₱ 308,028.32**	**₱ 288,180.59**	**₱ 293,971.23**	**₱ 1,178,360.73**
TOTAL	**₱5,514,043.40**	**₱1,447,591.02**	**₱2,176,330.32**	**₱1,839,450.55**	**₱10,977,415.30**

The Court sustains the above findings of the Independent CPA. The input taxes of ₱10,977,415.30 are disallowed from petitioner's claim for not being properly substantiated by VAT invoices or receipts as prescribed under Sections 110(A) and 113(A) and (B) of the NIRC of 1997, as amended, in relation to Sections 4.110-1, 4.110-8, and 4.113-1 of RR No. 16-05.

Considering the aforesaid disallowances, out of the total input VAT claim of ₱55,273,888.13, only the amount of ₱44,296,472.84 is duly substantiated, computed as follows:

Total Input VAT Claim	₱ 16,000,665.20	₱ 16,150,186.15	₱ 12,622,813.17	₱10,500,223.61	₱ 55,273,888.13
Less: Input VAT not properly substantiated by VAT invoices or official receipts per ICPA's findings	5,514,043.40	1,447,591.02	2,176,330.32	1,839,450.55	10,977,415.29
Properly Substantiated Input VAT	**₱10,486,621.80**	**₱14,702,595.13**	**₱10,446,482.85**	**₱8,660,773.06**	**₱44,296,472.84**

A portion of the ₱44,296,472.84 input VAT shall be applied against petitioner's reported output VAT liability for the four taxable quarters of 2009 in the amount of ₱19,875,929.90. Hence, for the four taxable quarters of 2009, only the remaining input VAT of ₱24,420,542.94 can be attributed to the entire zero-rated sales declared by petitioner in the amount of ₱2,070,261,775.50. As discussed earlier, however, petitioner's valid zero-rated sales amount only to ₱409,127,980.26. The input VAT attributable to petitioner's valid zero-rated sales amounts to ₱4,623,001.60 only, as computed below:

	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Total
Valid Input VAT	₱ 10,486,621.80	₱ 14,702,595.13	₱ 10,446,482.85	₱ 8,660,773.06	₱ 44,296,472.84
Less: Output VAT	4,902,092.41	4,677,577.02	5,293,050.03	5,003,210.44	19,875,929.90
Excess Input VAT	₱ 5,584,529.39	₱ 10,025,018.11	₱ 5,153,432.82	₱ 3,657,562.62	₱ 24,420,542.94
Valid Zero-Rated Sales	₱ 172,457,718.97	₱ 81,431,862.18	₱ 81,116,633.45	₱ 74,121,765.66	₱ 409,127,980.26
Divide by Total Declared Zero-Rated Sales	620,201,395.33	508,595,820.63	469,176,463.98	472,288,095.56	2,070,261,775.50
Multiplied by Excess Input VAT	5,584,529.39	10,025,018.11	5,153,432.82	3,657,562.62	24,420,542.94
Excess Input VAT Attributable to Valid Zero-Rated Sales	**₱ 1,552,874.93**	**₱ 1,605,117.19**	**₱ 890,984.85**	**₱ 574,024.63**	**₱ 4,623,001.60**

Input VAT was not applied against any output VAT liability in the succeeding quarters

Although the claimed input VAT was carried over by petitioner in its succeeding Quarterly VAT Returns,[47] the same remained unutilized until the input VAT was deducted as "VAT Refund/TCC Claimed"[48] in its Quarterly VAT Return for the fourth quarter of 2010. Thus, the excess input VAT of ₱157,160,605.18[49] as of the end of the fourth quarter of 2010, which was to be carried over to the succeeding first quarter of 2011, no longer included the subject claim.

In sum, petitioner has sufficiently proven its entitlement to a refund or issuance of tax credit certificate in the amount of **₱4,623,001.60**, representing its unutilized excess input VAT for the four taxable quarters of 2009 which is attributable to its zero-rated sales for the same period.

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in the reduced amount of **₱4,623,001.60** to petitioner Chevron Holdings Inc., representing its excess and unutilized input VAT for the four taxable quarters of 2009 attributable to its zero-rated sales for the same period.

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47 Exhibits "II-1" to "II-4".
48 Exhibit "II-4", Line 23D.
49 Exhibit "II-4", Line 29, Total Amount Payable (Overpayment).

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court in Division.

ROMAN G. DEL ROSARIO
Presiding Justice