REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

UNION BANK OF THE PHILIPPINES, *Petitioner,*	**C.T.A. CASE NO. 7874**
	Members:
-versus-	BAUTISTA, Chairperson, PALANCA-ENRIQUEZ, and COTANGCO-MANALASTAS, JJ.
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	MAR 29 2011
	ABFernandez 4:25 p.m.

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is a Petition for Review filed by Union Bank of the Philippines (hereafter "petitioner") praying that petitioner be not held liable for deficiency withholding taxes on compensation, expanded withholding taxes, final withholding taxes on its RBU and final withholding taxes on its FCDU, assessed by respondent in the amounts of P1,748,164.21, P7,011,708.99,

ON

P216,237.80 and P193,923.28, respectively, in view of the payments made by petitioner on June 30,2008, and likewise to declare petitioner immune from payment of the assessed deficiency Documentary Stamp Taxes ("DST") for its RBU-Regular Transaction, RBU-Special Savings Account and FCDU in the amounts of P54,065,285.37, P18,900,507.70 and P59,718,570.25, respectively, for taxable year 2004, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the Tax Code, arising from the alleged failure to pay the assessed deficiencies, in view of petitioner's availment of the Tax Amnesty under the Tax Amnesty Law, aside from the tax assessment having prescribed and petitioner being exempt from DST on its FCDU under *PD 1035* and *Revenue Regulations 10-76.*

THE PARTIES

Petitioner Union Bank of the Philippines is a commercial banking corporation, duly organized and existing under Philippine laws, with principal office address at 21st Floor Union Bank Plaza, Meralco Avenue, corner Onyx Street, Ortigas Center, Pasig City.

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue empowered under the Tax Code to decide disputed assessments arising under said law and other laws administered by the Bureau of Internal Revenue ("BIR"), with principal office at 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

THE FACTS

The facts of the case, as culled from the records, are as follows:

On February 26, 2007, a "Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code" extending the three-year prescriptive period the assessment and/or collection of deficiency taxes for calendar year 2004 to December 31, 2007 was executed by petitioner's representative, Cesar G. Ilagan, and accepted by respondent's OIC-ACIR of the Large Taxpayer's Service, Nestor S. Valerio.

Subsequently, on October 4, 2007, another "Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code" extending the three-year prescriptive period the assessment and/or collection of deficiency taxes for calendar year 2004 to June 30, 2008 was executed by petitioner's representative, Cesar G. Ilagan, and accepted by respondent's OIC-Head Revenue Executive Assistant of the Large Taxpayer Regular, Cesar Charlie C. Lim.

On February 19, 2008, petitioner availed of the *Tax Amnesty* under *RA 9480*.

Despite availment of the Tax Amnesty, on June 12, 2008, petitioner received a Preliminary Assessment Notice ("PAN") from the BIR, assessing petitioner of deficiency withholding taxes and DST for calendar year 2004, inclusive of surcharge, interests and compromise penalties, detailed as follows:

TAX TYPE	AMOUNT
Withholding tax on Compensation	P 1,730,783.48
Expanded Withholding Tax	6,945,535.36
Final Withholding Tax (RBU)	214,097.85
Final Withholding Tax (FCDU)	191,995.24
Documentary Stamp Tax (RBU-Regular Transaction)	53,529,472.13
Documentary Stamp Tax (RBU- Special Savings Account)	16,881,116.81
Documentary Stamp Tax (FCDU)	59,246,413.41
TOTAL AMOUNT	**P138,739,414.28**

On June 26, 2008, petitioner filed a reply-letter to the PAN.

After evaluation of the PAN, on June 30, 2008, petitioner voluntarily paid the assessments for withholding taxes on compensation, expanded withholding taxes, final withholding taxes-RBU and final withholding taxes-FCDU.

However, on the same date, June 30, 2008, petitioner received a Final Assessment Notice ("FAN") from the BIR, assessing petitioner of the alleged deficiency withholding taxes on compensation, expanded withholding tax, final withholding taxes on RBU and FCDU, and DST for RBU-Special Savings Account and FCDU for calendar year 2004, detailed, as follows:

TAX TYPE	AMOUNT
Withholding tax on Compensation	P 1,748,162.21
Expanded Withholding Tax	7,011,708.99
Final Withholding Tax (RBU)	216,237.80
Final Withholding Tax (FCDU)	193,923.28
Documentary Stamp Tax (RBU-Regular Transaction)	54,065,285.37
Documentary Stamp Tax (RBU- Special Savings Account)	18,900,507.70
Documentary Stamp Tax (FCDU)	59,718,570.25
TOTAL AMOUNT	**P141,854,397.60**

On July 24, 2008, petitioner filed a Formal Letter of Protest on the ground that on June 30, 2008, petitioner paid to the BIR the deficiency withholding taxes assessments on its RBU and FCDU transactions; and as regards the DST on Regular Transactions, Special Savings Account and FCDU in the amounts of P54,065,285.37, P18,900,507.70 and P59,718,570.25, respectively, petitioner interposed as a defense its availment of the Tax Amnesty Program under *RA 9480*, as implemented by *Department of Finance Order ("DO") 29-07* and *Revenue Memorandum Circular ("RMC") 69-07*.

In view of respondent's inaction, petitioner filed the instant Petition for Review.

In his Answer, respondent, by way of Special and Affirmative Defenses, alleged that:

> "12. The assessments were issued in accordance with law and regulations.
>
> 13. The assessments against petitioner for deficiency withholding taxes on compensation, expanded withholding taxes and final withholding taxes on its RBU and FCDU should not be cancelled as petitioner has to prove payment of the same.
>
> xxx xxx.
>
> 14. Petitioner did not submit documents that will substantiate its alleged availment of tax amnesty.
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> xxx xxx.
>
> 15. Suppose that petitioner availed of the Tax Amnesty program of the government, the assessments against petitioner for deficiency final withholding tax on its on-shore income and Documentary Stamp Tax should not be cancelled as petitioner's availment of tax amnesty has not become incontestable.
>
> xxx xxx.
>
> 16. The power to cancel assessments is within the province of respondent's authority.
>
> xxx xxx.
>
> 17. Petitioner's FCDU Onshore Income is not exempt from Documentary Stamp Tax.

xxx xxx.

18. Respondent's period to assess has not prescribed.

xxx xxx."

Petitioner presented Arminda M. Cabacoy, as witness, and formally offered documentary evidence, marked as *Exhibits "A" to "S",* inclusive of their submarkings, which were all admitted by the Court in a Resolution dated August 9, 2010.

On the other hand, respondent, thru counsel, manifested at the hearing on September 13, 2008 that he will not present any evidence and prayed that he be granted 30 days to file his memorandum.

Both parties were granted thirty (30) days from September 13, 2008 to file their respective memorandum, afterwhich, the case shall be deemed submitted for decision.

Both parties having filed their respective memorandum, the case was deemed submitted for decision on November 11, 2010.

ISSUES

As stipulated upon by the parties, the following are the issues for this Court's consideration:

I

WHETHER OR NOT THE ASSESSMENTS AGAINST THE PETITIONER FOR DEFICIENCY WITHHOLDING TAXES ON COMPENSATION, EXPANDED WITHHOLDING TAXES, FINAL WITHHOLDING TAXES ON ITS RBU AND FCDU SHOULD ALREADY BE CANCELLED.

II

WHETHER OR NOT THE ASSESSMENTS AGAINST THE PETITIONER FOR DEFICIENCY FINAL WITHHOLDING TAX ON ITS ON-SHORE INCOME AND DOCUMENTARY STAMP TAX (DST) SHOULD ALREADY BE CANCELLED IN VIEW OF ITS AVAILMENT OF THE TAX AMNESTY PROGRAM UNDER THE TAX AMNESTY LAW.

III

WHETHER OR NOT PETITIONER IS LIABLE TO THE ALLEGED DEFICIENCY DST ON ITS FCDU IN LIGHT OF THE CATEGORICAL PROVISIONS OF REVENUE REGULATIONS NO. 10-76 AND PRESIDENTIAL DECREE 1035.

IV

WHETHER OR NOT THE PERIOD TO ASSESS BY RESPONDENT HAS PRESCRIBED.

<u>THE COURT'S RULING</u>

The Petition for Review is meritorious.

Prescription

We deem it necessary first resolve the issue on prescription raised as the fourth issue by the parties before we resolve the other issues.

Section 203 of the NIRC of 1997, as amended, provides:

> "SEC. 203. Period of Limitation Upon Assessment and Collection. – Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day."

Pursuant to the above provision, internal revenue taxes shall be assessed, within three (3) years after the last day prescribed by law for the filing of the return, or from the day the return was filed, whichever is later.

Section 222(a) of the NIRC of 1997, as amended, however, provides that: (a) in case of a false, or (b) fraudulent return with intent to evade tax, or (c) failure to file a return, the tax may be assessed, within ten (10) years after the discovery of the falsity, fraud or omission. *Paragraph (b) of the same Section 222* further provides that "if before the expiration of the time prescribed in Section 203 for the assessment of the tax, both the Commissioner and the taxpayer have agreed in writing to its assessment after such time, the tax may be assessed within the period agreed upon. The period so agreed upon may be extended by subsequent written agreement made before the expiration of the period previously agreed upon."

RMO 20-90, which implements *Sections 203 and 222(b) of the NIRC of 1997, as amended*, laid down the procedures in executing the waiver. *Paragraph 3* thereof prescribes the persons authorized to sign the waivers. In the National Office, for taxes involving not more than P500,000.00, the ACIRs for Collection, Special Operations, National Assessment, Excise and Legal on tax cases pending before their respective offices shall sign the waiver. In the absence of the ACIR, the Head Executive Assistant may sign the waiver. For tax cases involving more than P500,000.00, but not more than P1M, the Deputy Commissioner shall sign the waiver. But, for tax cases involving more than P1M, the Commissioner shall sign the waiver.

The Court will now resolve the issue on prescription covering each assessment.

Deficiency Assessment for Withholding Taxes on Compensation, Expanded Withholding Tax, Final Withholding Tax on RBU and Final Withholding Tax on FCDU

As regards petitioner's withholding tax liabilities, records show that petitioner filed its Monthly Remittance Return of Income Taxes Withheld on

Compensation for the month of December on January 14, 2005 *(BIR Records, p. 416)*, Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) for the month of December on January 14, 2005 *(BIR Records, p. 495)*, and Monthly Remittance Return of Final Income Taxes Withheld (BIR Form No. 1601-F) and (BIR Form No. 1602), for the months of December, both on January 14, 2005 *(BIR Records, pp. 379, and 353, respectively)*. Under *Section 4 of Revenue Regulations 6-2001,* in relation to the *third paragraph of Section 58 (A) of the NIRC of 1997, as amended*, the period prescribed for the filing and payment of income taxes withheld on compensation and taxes withheld at source, whether creditable or final, is within ten (10) days after the end of each month, except for taxes withheld for the month of December of each year, which shall be filed on or before January 15 of the following year. Provided that for taxpayers, whether large or non-large, who availed of the electronic filing and payment (EFPS), the deadline for electronically filing the applicable withholding tax returns and paying the taxes due thereon via the EFPS shall be five (5) days later than the deadlines set above.

Accordingly, for petitioner who filed its withholding taxes via electronic filing, the deadline for the filing of said returns for the month of December 2004 was on January 20, 2005. Thus, pursuant to *Section 203 of* *the NIRC of 1997, as amended*, the latest date said withholding taxes on compensation, expanded withholding tax, final withholding tax (RBU), and final withholding tax (FCDU) that can be assessed within the three-year prescriptive period was until January 20, 2008.

Deficiency Assessment for
DST-RBU (Regular Transaction)

As regards petitioner's DST deficiency assessment for RBU Regular Transactions, records further show that the latest date that petitioner filed its Documentary Stamp Tax Declaration/Return (BIR Form 2000) was on December 28, 2004 *(BIR Records, pp 234-237)*. Under *Section 5 of Revenue Regulations 6-2001,* in relation to *Section 200 (B) of the NIRC of 1997, as amended*, DST Return shall be filed, within five (5) days after the close of the month when the taxable document was made, signed, accepted or transferred, and the tax due thereon shall be paid at the same time the aforesaid return is filed. Accordingly, for taxable year 2004, the latest deadline for petitioner to file its DST Return was until January 5, 2005. Therefore, pursuant to *Section 203 of the NIRC of 1997, as amended*, the deficiency assessment for DST (RBU-Regular Transactions) can be validly assessed until January 5, 2008.

Deficiency Assessment for DST (RBU-Special Savings Account) and FCDU

However, as to deficiency assessments for DST (RBU-Special Savings Account) and FCDU, considering that petitioner failed to file the corresponding returns therein and failed to pay the corresponding tax due thereon on the belief that it is exempt from the payment of DST on its Special Savings Account and FCDU transactions, *Section 222 of the NIRC of 1997, as amended*, which provides for a ten (10)-year prescriptive period to assess from the discovery of the omission, will apply. Since there is no allegation when respondent discovered petitioner's omission to file DST Returns and pay the corresponding tax due thereon on its RBU (Special Savings Account) and FCDU, we will consider the date of the Revenue Officer's Audit Report on DST, which was May 23, 2003 *(BIR Records, pp. 1722-1725)*, as the date of discovery of said omission for purposes of counting the prescriptive period under *Section 222(a) of the NIRC of 1997, as amended.* Accordingly, the deadline to assess petitioner of deficiency DST on RBU-Special Savings Account and FCDU is until May 23, 2013.

Records show that on February 26, 2007, petitioner's representative, Cesar Ilagan, and respondent's OIC-ACIR of the Large Taxpayers Service, Nestor S. Valerio, executed a "Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code" extending the assessment and/or collection of deficiency assessment for calendar year 2004 to December 31, 2007 *(BIR Records, pp. 744 and 745)*.

Subsequently, on October 4, 2007, another "Waiver of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code" was executed by petitioner's representative, Cesar G. Ilagan, and accepted by respondent's OIC-Head Revenue Executive Assistant of the Large Taxpayer Regular, Cesar Charlie C. Lim, extending the assessment and/or collection of deficiency taxes for calendar year 2004 to June 30, 2008 *(Annex "C", Petition for Review, BIR Records, pp. 746 and 747)*.

A perusal of said waivers, however, shows that they did not comply with the procedures outlined under *RMO 20-90*, specifically *Section 3* thereof, which provides that for tax cases involving more than one million pesos, in the National Office, it is the Commissioner who is authorized to sign the waiver. In this case, the total deficiency assessment against petitioner amounts to P141,854,397.60; thus, it should be the Commissioner who should have accepted the waiver and not merely the head of the Large Taxpayer Service. In the case of *Commissioner of Internal Revenue vs. FMF Development Corporation, 556 SCRA 709-710*, the Supreme Court ruled that if the case involves an amount of more than one million pesos and the same was not signed by the Commissioner, a waiver has no binding effect on respondent because there was no consent by the Commissioner. On this basis, no implied consent can be presumed, nor can it be contended that the concurrence to such waiver is a mere formality. Evidently, applying *RMO 20-90* and the foregoing jurisprudence, the waivers dated February 26, 2007 and October 4, 2007 are defective. Thus, the waivers did not toll the running of the three-year prescriptive period, counted from January 20, 2005, the last day prescribed by law for filing of the return for withholding taxes, and counted from January 5, 2005, the last day prescribed by law for filing of DST (RBU-Regular Transactions).

In fine, we hold that Assessment Notices dated June 30, 2008 for withholding tax on compensation, expanded withholding tax, final withholding tax (RBU), final withholding tax (FCDU), and DST (RBU-Regular Transactions) were issued beyond the three-year prescriptive period.

However, as regards the Assessment Notices for DST (RBU-Special Savings Account) and DST (FDCU), both issued on June 30, 2008, the Assessments were issued within the ten-year prescriptive period, which is until May 23, 2013.

We now proceed to the resolution of the first, second and third issues.

First Issue: Whether the Deficiency Assessment for Withholding Taxes on Compensation, Expanded Withholding Tax, Final Withholding Tax on RBU and Final Withholding Tax on FCDU Should be Cancelled

Considering that the Assessment Notices for deficiency withholding taxes on compensation in the amount of P1,748,164.21, expanded withholding tax in the amount of P7,011,708.99, final withholding tax (RBU) in the amount of P216,237.80, and final withholding tax (FCDU) in the amount of P193,923.28 were issued beyond the three-year prescriptive period; consequently, said deficiency assessments should have been ordered cancelled and set aside.

Moreover, records also show that on June 30, 2008, petitioner paid the deficiency assessments for withholding taxes on compensation, in the amount of P1,730,783.28 *(Exhibits "F" and "G")*, expanded withholding tax, in the amount of P6,945,535.36 *(Exhibits "H" and "I")*, final withholding tax-RBU, in the amount of P214,097.85 *(Exhibits "J" and "K")*, and final withholding tax-FCDU, in the amount of P191,995.24 *(Exhibits "L" and "M")*.

A perusal of the PAN reveals that the amounts of deficiency assessments for withholding taxes on compensation in the amount of

P1,730,783.28, expanded withholding tax in the amount of P6,945,535.36, final withholding tax-RBU in the amount of P214,097.85, and final withholding tax-FCDU in the amount of P191,995.24 are inclusive of penalties, such as deficiency interest imposed under *Section 249 of the NIRC of 1997, as amended*, from the date prescribed for their payments until June 30, 2008. Considering that petitioner paid the afore-mentioned deficiency assessments on June 30, 2008, then petitioner's payment constitutes full payment of said deficiency assessments. Hence, with more reasons that the deficiency assessments for withholding taxes on compensation, expanded withholding tax, final withholding tax-RBU, and final withholding tax-FCDU should be cancelled and set aside.

Second and Third Issues:
Deficiency Assessments for DST(RBU-Regular Transaction), DST(RBU-Special Savings Account), and DST (FCDU)

Being interrelated, the second and third issues shall be discussed jointly.

Deficiency DST Assessment on RBU-Special Savings Account

As regards the deficiency assessment for DST on petitioner's RBU-Special Savings Account, the issue is not novel as the same has already been ruled by the Supreme Court in a long line of cases: *Banco de Oro Universal*

Bank vs. Commissioner of Internal Revenue, G.R. No. 173602, January 15, 2007, International Exchange Bank vs. CIR, 520 SCRA 688, Philippine Banking Corporation (now) Global Business Bank, Inc. vs. Commissioner of Internal Revenue, G.R. No. 170574, February 9, 2009, Metropolitan Bank and Trust Company vs. Commissioner of Internal Revenue, 595 SCRA 234, and China Banking Corporation vs. Commissioner of Internal Revenue, 602 SCRA 316. Even prior to the passage of *RA 9243*, amending *Section 180 of the NIRC of 1997* and renaming it as *Section 179*, Special Savings Deposit Accounts, though evidenced with passbooks, are already subject to DST, as they are considered certificates of deposit bearing interest on which DST, under *Section 180 of the NIRC of 1997, as amended*, can be imposed.

Deficiency DST Assessment on FCDU

As to the deficiency assessment for DST on petitioner's FCDU, we agree with respondent that although *PD 1035*, in relation to *Revenue Regulations 10-76*, provides that the net income from foreign currency deposit transactions shall be subject to a five percent (5%) tax, which shall be in lieu of all taxes on said transactions, the phrase "in lieu of all taxes" was deleted in *Sections 27(D)(3) and 28(7)(b) of RA 8424*, otherwise known as "the National Internal Revenue Code of 1997", which took effect on

January 1, 1998. Settled is the rule that amendment by deletion of certain words or phrases in the statute indicates that the legislators intended to change the meaning of the statute. Thus, by virtue of such deletion, *Revenue Regulations 10-76*, which implemented the old law, is no longer applicable. In other words, the payment of the 10% final tax on FCDU income does not exempt petitioner from payment of the DST on such transactions.

That FCDU tax exemption from all other taxes was deleted by the *NIRC of 1997, as amended*, is bolstered by the fact that on April 28, 2004, the Congress enacted *RA 9294* "An Act Restoring the Tax Exemption of Offshore Banking Units (OBUs) and Foreign Currency Deposit Units (FCDUs), Amending for the Purpose Section 27(b) and Section 28, paragraphs (A)(4) and (A)(7) of the National Internal Revenue Code as Amended". The act of Congress in restoring the tax exemption of FCDUs clearly shows that prior to the effectivity of *RA 9294*, on May 20, 2004, FCDUs are subject to 10% final tax and not exempt from the payment of all other taxes, as provided in *Section 27(D)(3) and Section 28(A)(7) of the NIRC of 1997*. Otherwise, common sense dictates that Congress will not restore an exemption that is already existing.

However, considering that the deficiency assessment for DST on FCDU transactions against petitioner is for taxable year 2004, starting May 20, 2004, the date of effectivity of *RA 9294*, petitioner's FDCU transactions, except net income from such transactions, as may be specified by the Secretary of Finance, are now exempt from all taxes, including the present assessment for deficiency DST, pursuant to *Section 1 of RA 9294*, which provides for an all inclusive exemption from all other taxes, as follows:

> "SEC. 27. Rates of Income Tax on Domestic Corporations. –
>
> xxx xxx
>
> (D) Rates of Tax on Certain Passive Incomes.-
>
> '(3) Tax on Income Derived under the Expanded Foreign Currency Deposit System. – Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with nonresidents, offshore banking units in the Philippines, local commercial banks including branches of foreign banks that may be authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with foreign currency deposit system ***shall be exempt from all taxes***, except net income from such transactions as may be specified by the Secretary of Finance, upon recommendation by the Monetary Board to be subject to the regular income tax payable by banks: Provided, however, That interest income from foreign currency loans granted by such depository banks under said expanded system to residents other than offshore banking units in the Philippines or other depository banks under the expanded system shall be subject to a final tax at the rate of ten percent (10%).'
>
> xxx xxx." *(Emphasis supplied)*

Availment of Tax Amnesty

The above discussions, notwithstanding, this Court, however, takes note that on February 19, 2008, petitioner availed of the Tax Amnesty under *RA 9480*, by submitting the following documents:

1) Notice of Availment of Tax Amnesty *(Exhibit "A")*,

2) Tax Amnesty Payment Form *(Exhibit "B")*,

3) Tax Amnesty Return *(Exhibit "C")*,

4) Statement of Assets, Liabilities and Networth *(Exhibit "D")*, and

5) Tax Payment Deposit Slip *(Annex "A", petitioner's "Memorandum")*.

Section 6 of RA 9480 provides that a taxpayer who availed of the tax amnesty under *Section 5 of RA 9480* and has fully complied with all its conditions shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the *NIRC of 1997, as amended*, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

Considering that DST is one of the taxes covered by the Tax Amnesty Program under *RA 9480 (Philippine Banking Corporation (now) Global Business Bank, Inc. vs. Commissioner of Internal Revenue, G.R. No. 170574, February 9, 2009 and Metropolitan Bank and Trust Company vs. Commissioner of Internal Revenue, 595*

SCRA 234), and the instant deficiency assessments against petitioner pertain to calendar year 2004, and considering further that petitioner has complied with the conditions imposed under *Section 2 of RA 9480*, then pursuant to *Section 6 of RA 9480*, petitioner is immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the *NIRC of 1997, as amended*, arising from its failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

Thus, petitioner is already immune from deficiency assessments for DST on its RBU-Regular Transactions in the amount of P53,529,472.13, RBU-Special Savings Account in the amount of P16,881,116.81, and FCDU in the amount of P59,246,413.41.

Respondent, however, counters that petitioner failed to fully comply with the mandatory requirements set forth by *Section 2 of RA 9480*, in relation to *paragraphs (1)(a)(b)(c) and 2 of Section 8, Rule IV of Department Order 29-07* (Implementing Rules and Regulations of RA 9480), as petitioner failed to supply appropriate information in the columns "Reference" and "Basis of Valuation", thus the SALN submitted by petitioner failed to comply with the minimum requirements of the Tax Amnesty Law.

We find that respondent's assertions at this point in time are already too late, as the one year period allowed by *Section 4 of RA 9480* to initiate proceedings to overturn the presumption of correctness of the SALN had already prescribed. Petitioner availed of the Tax Amnesty under *RA 9480* on February 19, 2008, and respondent questioned the correctness of the SALN on March 12, 2009 only as Special and Affirmative Defenses in his Answer. Evidently, as of February 20, 2009, the amnesty granted to petitioner had already become final, and thus, cannot be questioned anymore in any proceedings involving tax deficiencies for taxable year 2005 and prior years.

As we have previously ruled, the one (1)-year period was provided so that issues arising from the availment may end and terminate sometime and somewhere, it being essential to the effective administration of justice. After the expiration of the one (1)-year period, no one is allowed perpetually to raise any issue as to the liability of the taxpayer for the taxable period covered by the amnesty, consequently, all issues arising from the availment of the taxpayer's amnesty are terminated.

For all the foregoing, we have no other recourse, but to cancel the deficiency assessments for DST on (1) RBU-Regular Transactions in the amount of P53,529,472.13 on the ground that the Assessment Notice was issued beyond the prescriptive period to assess and in view of petitioner's availment of Tax Amnesty under *RA 9480*; and (2) RBU-Special Savings Account in the amount of P16,881,116.81, and FCDU in the amount of P59,246,413.41, solely in view of petitioner's availment of the Tax Amnesty Program under RA *9480*.

WHEREFORE, premises considered, the Petition for Review is hereby **GRANTED**. Accordingly:

1) As regards the deficiency assessments for withholding taxes, specifically:

a) Withholding taxes on compensation in the amount of P1,748,164.21,

b) Expanded withholding tax in the amount of P7,011,708.99,

c) Final withholding tax on RBU in the amount of P216,237.80, and

d) Final withholding tax on FCDU in the amount of P193,923.28,

are hereby ordered **CANCELLED** and **SET ASIDE,** on the grounds that the corresponding Assessment Notices thereof were issued beyond the prescriptive period and the corresponding deficiency assessments therein were paid by petitioner on June 30, 2008;

2) As regards the deficiency assessment for DST (RBU-Regular Transactions) in the amount of P54,065,285.37, the same is hereby ordered **CANCELLED** and **SET ASIDE,** on the grounds that the corresponding Assessment Notice therein was issued beyond the prescriptive period and in view of petitioner's availment of the Tax Amnesty under *RA 9480*;

3) As regards the deficiency assessments for DST (RBU-Special Savings Account) in the amount of P18,900,507.70 and FCDU in the amount of P59,718,570.25, said assessments are hereby ordered **CANCELLED** and **SET ASIDE**, solely in view of petitioner's availment of the Tax Amnesty under *RA 9480.*

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

ATTESTATION

I attest 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's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice