REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TRAVELLERS INTERNATIONAL HOTEL GROUP, INC., Petitioner,	**CTA CASE NO. 9769**
	Members:
- **versus** -	**DEL ROSARIO**, *P.J., Chairperson, and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 08 2020 2:08 pm

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed on February 15, 2018 by petitioner Travellers International Hotel Group, Inc., praying that judgment be rendered reversing respondent's Final Decision on Disputed Assessment dated January 5, 2018 and ordering the cancellation and withdrawal of the assessment for deficiency income tax for calendar year 2012 in the aggregate amount of Four Billion Six Hundred Eleven Million Seven Hundred Seventeen Thousand Three Hundred Forty Nine Pesos and 01/100 (₱4,611,717,349.01), inclusive of increments.

THE PARTIES

Petitioner Travellers International Hotel Group, Inc. is a domestic corporation duly organized and existing under Philippine laws, with principal office at 10/F Newport Entertainment & Commercial Centre, Newport Boulevard, Newport Cybertourism Economic Zone, Pasay City.[1] It is authorized by the Philippine

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[1] Par. 1, Joint Stipulation of Facts and Issues (JSFI), CTA Docket, Vol. II, p. 758.

Amusement and Gaming Corporation (PAGCOR) to establish and operate casinos within the latter's regulatory and licensing authority under Presidential Decree (PD) No. 1869, as amended, otherwise known as the PAGCOR Charter.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested by law with the authority to carry out the functions, duties, and responsibilities of said office, including *inter alia*, the power to decide, approve and grant refunds and/or tax credits of overpaid and erroneously paid or collected internal revenue taxes.[3]

THE FACTS

On July 24, 2014, petitioner received a Letter of Authority[4] No. LOA-125-2014-00000040 dated July 14, 2014 authorizing Revenue Officer Manuel Tasarra, under the supervision of Group Supervisor Fe Caling, of the Regular LT Audit Division 2 to examine/audit petitioner's internal revenue taxes for the period from January 1, 2012 to December 31, 2012.

Petitioner and respondent executed six (6) *Waivers of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code*, detailed as follows:

Waivers[5]	**Date Executed by Taxpayer**	**Date Accepted by the BIR**	**Agreed Period to Assess**
1	May 14, 2015	May 19, 2015	until August 31, 2015
2	August 10, 2015	August 12, 2015	until November 30, 2015
3	October 30, 2015	November 12, 2015	until February 29, 2016
4	February 4, 2016	February 5, 2016	until May 31, 2016
5	April 25, 2016	May 4, 2016	until August 31, 2016
6	July 27, 2016	August 3, 2016	until June 30, 2017

As a result of the audit and examination of petitioner's records, petitioner received on April 21, 2017 an undated Preliminary Assessment Notice[6] (PAN) with attached Details of Discrepancies[7]

[2] Exhibit P-3, CTA Docket, Vol II, pp. 829-863.
[3] Par. 2, JSFI, CTA Docket, Vol. II, pp. 758-759.
[4] Exhibit R-1, BIR Records, p. 1.
[5] Exhibits R-2, R-3, R-4, R-5, R-6, R-7, BIR Records, pp. 159-164.
[6] Exhibit R-9, BIR Records, pp. 81-83.
[7] Exhibit P-5, CTA Docket, Vol. II, pp. 858-860; Exhibit R-9, BIR Records, pp. 78-80.

from the Bureau of Internal Revenue (BIR) -Regular Large Taxpayers Audit Division 2, which proposed to assess petitioner with deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), withholding tax on compensation (WTC), final withholding tax (FWT), and documentary stamp tax (DST) for calendar year (CY) 2012 in the aggregate amount of Five Billion Seventy Three Million Nine Hundred Forty Five Thousand Five Hundred Eighty Five Pesos and 02/100 (₱5,073,945,585.02), inclusive of interest and penalties.[8]

On April 27, 2017, petitioner paid the amount of One Hundred Twenty Three Million One Hundred Thirty Seven Thousand Eight Hundred Fifty One and 54/100 (₱123,137,851.54), representing the full payment of the proposed deficiency income tax on **non-gaming revenues**, VAT, EWT, WTC, FWT, DST, and compromise penalties, inclusive of interest and surcharge.[9]

On April 27, 2017, petitioner filed its Reply[10] to the PAN to controvert the proposed income tax assessment on the **revenues derived by petitioner from gaming operations** under its Provisional License with PAGCOR.

On June 23, 2017, petitioner received a Formal Letter of Demand (FLD)[11] with attached Details of Discrepancies[12] and Assessment Notice[13] dated June 13, 2017, requesting petitioner to pay the alleged deficiency income tax for CY 2012 in the total amount of Four Billion Three Hundred Thirty Four Million Five Hundred Twenty Four Thousand Three Hundred Eighty Five Pesos and 62/100 (₱4,334,524,385.62), inclusive of updated interest, broken down as follows:

I. INCOME TAX		
Taxable Income per return	₱	(1,814,301,737.00)
Add: Adjustments		
Gaming income (Sec. 27)		7,843,056,716.00
Adjusted Taxable Income	₱	7,843,056,716.00
Tax Rate		30%

[8] Exhibit P-5, CTA Docket, Vol. II, pp. 861-863; Exhibit R-9, BIR Records, pp. 78-83.
[9] Exhibits P-6, P-6-a, P-7, P-7-a, P-8, P-8-a, P-9, P-9-a, P-10, P-10-a, P-11, P-11-a, P-12, P-12-a, CTA Docket, Vol. II, pp. 864 to 884; BIR Records, pp. 116-136.
[10] Exhibit P-13, CTA Docket, Vol. II, pp. 892; Exhibit R-10, BIR Records, pp. 143-150
[11] Exhibit P-14, CTA Docket, Vol. II, p. 893; Exhibit R-11, BIR Records, p. 173.
[12] Exhibit P-14, CTA Docket, Vol. II, p. 894; Exhibit R-11, BIR Records, p. 172.
[13] Exhibit P-14, CTA Docket, Vol. II, p. 895; Exhibit R-12, BIR Records, p. 171.

Income tax due per investigation		₱ 2,352,917,014.80
Minimum Corporate Income Tax (MCIT)	₱ 19,540,867.68	
Less: Tax Credits		
Prior years excess credit	₱ -	
Tax payments for 1st – 3rd quarter	-	
Creditable tax withheld during the year	15,980,604.00	
Paid per return	3,540,263.68	
Total	19,450,867.68	
Income tax still payable		₱ 2,352,917,014.80
Basic deficiency income tax		₱ 2,352,917,014.80
Interest from 04/15/13 to 06/30/17		1,981,607,370.82
Total deficiency income tax		₱ 4,334,524,385.62

In the aforesaid Details of Discrepancies, the BIR elucidated the basis for imposing deficiency income tax on petitioner's gaming operations, *viz.*:

"**I. INCOME TAX**

* **Gaming Income, ₱7,843,056,716.00** – Verification disclosed that you classified as tax-exempt income the revenues generated from related operations of your provisional gaming license from Philippine Amusement and gaming Corporation (PAGCOR). However, pursuant to the provisions of Revenue Memorandum Circular Nos. 8-2012 and 13-2013, in relation to Section 27 and 32 of the Tax Code as amended, you are assessed deficiency income tax. Part of the provisions of said RMC's are as follows:

  > 'Pursuant to Section 1 of the R.A. 9337, amending Section 27(C) of the NIRC, as amended, PAGCOR is no longer exempt from corporate income tax as it has been effectively omitted from the list of government-owned or controlled corporations (GOCCs) that are exempt from income tax. Accordingly, PAGCOR's income from its operations and licensing of gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, and other related operations are subject to corporate income tax under the NIRC, as amended. xxx...
  >
  > xxx... PAGCOR's contractees and licensees are entities duly authorized and licensed by PAGCOR to perform gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools. These contratees (*sic*) and licensees are subject to income tax under the NIRC, as amended.'"

On July 21, 2017, petitioner filed a Protest to the FLD and Assessment Notice, praying for the cancellation and withdrawal of the deficiency income tax assessment for CY 2012.[14]

On January 17, 2018, petitioner received respondent's Final Decision on Disputed Assessment (FDDA) dated January 5, 2018,[15] denying its Protest.

Aggrieved, petitioner filed the present Petition for Review on February 15, 2018.

On May 25 2018, respondent filed his Answer[16] and raised the following special and affirmative defenses: (i) there is no law exempting petitioner from income tax on revenues from gaming operations; (ii) since petitioner is claiming for income tax exemption, it is imperative that petitioner prove its entitlement thereto; (iii) Revenue Memorandum Circular (RMC) Nos. 8-2012 and 33-2013 are valid BIR regulations which cannot be the subject of an indirect attack by petitioner; (iv) the assessment is valid since the FLD properly stated the facts and the law on which the assessment is based; and, (v) petitioner has the duty to prove the impropriety of the assessment.

On June 13, 2018, respondent filed his Pre-Trial Brief;[17] while petitioner filed its Pre-Trial Brief on June 18, 2018.[18]

The Pre-Trial Conference was held on July 19, 2018.[19] The parties filed their Joint Stipulation of Facts and Issues on August 3, 2018.[20] The Pre-Trial Order[21] was issued on August 15, 2018. The Court also terminated the Pre-Trial in the same Order.

During trial, petitioner presented testimonial and documentary evidence. Petitioner's formally offered exhibits, as contained in its

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[14] Exhibit P-15, CTA Docket, Vol. II, pp. 896-903; BIR Records, pp. 210-217.
[15] Exhibit P-16, CTA Docket, Vol. II, pp. 939-941; Exhibit R-13, BIR Records, pp. 224-226.
[16] CTA Docket, pp. 159-174.
[17] CTA Docket, Vol. I, pp. 177-182.
[18] CTA Docket, Vol. I, pp. 205-217.
[19] Minutes of the Hearing dated July 19, 2018, CTA Docket, Vol. II, p. 489; Order dated July 19, 2018, CTA Docket, Vol. II, p. 490.
[20] CTA Docket, Vol. II, pp. 758-765.
[21] CTA Docket, Vol. II, pp. 766-770.

Formal Offer of Evidence filed on March 28, 2019,[22] were admitted in the Resolution[23] dated June 10, 2019.

In turn, respondent presented his testimonial and documentary evidence. Respondent's formally offered exhibits, as contained in his Formal Offer of Evidence posted on July 17, 2019,[24] were admitted in the Resolution dated September 10, 2019.[25]

After the filing of the Memorandum for the Petitioner[26] on October 16, 2019, and respondent's Memorandum on November 8, 2019,[27] the case was submitted for decision on November 15, 2019.[28]

THE ISSUES[29]

Petitioner submits the following issues for the Court's resolution:

I. Whether or not petitioner's gaming revenue in the amount of ₱7,843,056,716.00 is exempt from taxes under PD No. 1869.

II. Whether or not the deficiency income tax assessment against petitioner for CY 2012 disregarded the statutory significance of Section 13(2), PD No. 1869, as amended, which exempts PAGCOR's contractees and licensees from income tax on revenues from gaming operations.

III. Whether or not the FLD failed to properly state the legal basis of the deficiency income tax assessment against petitioner by relying merely on RMC No. 8-2012 and RMC No. 33-2013.

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[22] CTA Docket, Vol II, pp. 793-805.
[23] CTA Docket, Vol II, pp. 1094-1095.
[24] CTA Docket, Vol II, pp. 1110-1116.
[25] CTA Docket, Vol II, pp. 1128-1129.
[26] CTA Docket, Vol II, pp. 1148-1176.
[27] CTA Docket, Vol II, pp. 1181-1200.
[28] CTA Docket, Vol II, p. 1202.
[29] JSFI, CTA Docket, Vol. II, pp. 759-760; Pre-Trial Order, CTA Docket, Vol. II, p. 768.

IV. Assuming for the sake of argument that petitioner is not entitled to income tax exemption on gaming revenues, whether or not petitioner has available credits for the 2% minimum corporate income tax for purposes of reducing the alleged deficiency income tax.

V. Assuming for the sake of argument that petitioner is not entitled to income tax exemption on gaming revenues, whether or not petitioner's timely payment of the 5% franchise tax reduces the income tax on gaming revenues.

Respondent, on the other hand, submits the following issues for the Court's resolution:

I. Whether petitioner's revenues arising from its gaming operations are subject to income tax.

II. Whether petitioner is liable for deficiency income tax in the amount of ₱4,611,717,349.01 for taxable year 2012, plus 25% and 50% surcharge, 20% deficiency and delinquency interest pursuant to Sections 248 and 249 of the National Internal Revenue Code of 1997.

The main substantive issue of this case boils down to **whether or not the revenue derived from petitioner's gaming operations is exempt from income tax**.

THE PARTIES' ARGUMENTS

Petitioner's arguments

Petitioner raises the following arguments in support of the present Petition for Review: (i) petitioner, a licensee of PAGCOR, is exempted from income tax on revenues derived from its gaming operations by virtue of Section 13(2) of PD No. 1869; (ii) the FLD issued against petitioner failed to properly state the legal basis of the deficiency income tax assessment; and (iii) assuming *arguendo* that it is not entitled to income tax exemption on revenues derived from its gaming operations, petitioner's NOLCO and available credits from its

2% Minimum Corporate Income Tax should have been considered by respondent in computing petitioner's alleged deficiency income tax.

Respondent's arguments

Respondent puts forth the following counter-arguments: (i) there is no law exempting petitioner from income tax on its revenues derived from gaming operations; (ii) since petitioner is claiming an exemption, it is imperative that it prove its entitlement thereto; (iii) RMC Nos. 8-2012 and 33-2013 are valid BIR regulations and cannot be the subject of an indirect attack by petitioner; (iv) the FLD is valid since it states the facts and law on which the assessment was made; and, (v) petitioner has the duty to prove the impropriety of the assessment.

THE COURT'S RULING

The Petition for Review was filed on time

Before delving into the merits of the case, the Court shall first determine the timeliness of the filing of the Petition for Review.

Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, provides for the procedure and manner upon which a taxpayer may protest an assessment, viz.:

> "SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however*, That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
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> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
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> **Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice.** If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision,** or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable." *(Boldfacing supplied)*

Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, implements Section 228 of the NIRC of 1997, as amended. Section 3.1.4 thereof provides:

"3.1.4 **Disputed Assessment**. - The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:

(i) **Request for reconsideration** - refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.

(ii) **Request for reinvestigation** - refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.

xxx xxx xxx

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the

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> Commissioner's duly authorized representative shall be entertained by the Commissioner.
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> If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request for reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period; or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.
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> If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA. xxx" *(Boldfacing supplied)*

Relatedly, Section 11 of Republic Act No. 1125,[30] as amended, in relation to Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals,[31] provides that a party adversely affected by the inaction of the CIR may appeal to the Court of Tax Appeals (CTA) by

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[30] 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 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. Xxx.

[31] SEC. 3. Who may appeal; period to file petition. –
(a) A party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of the copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of taxes.

a petition for review within thirty (30) days after the expiration of the period fixed by law for the CIR to act on the disputed assessment.

In the present case, petitioner received the FLD on June 23, 2017. It timely filed a Protest on July 21, 2017 or within the thirty (30) day period from the receipt of the FLD.

As borne by the records, petitioner filed its protest to the FLD on July 21, 2017 with attached supporting documents, wherein petitioner requested for the reconsideration of the deficiency tax assessments and the subsequent cancellation thereof.

The tenor of petitioner's Protest reveals that petitioner only raises a legal issue and not a factual issue *i.e.* whether its gaming operations is exempt from income tax. This was corroborated by the attachments to the Protest such as a copy of the FLD[32] and a copy of the Supreme Court case entitled "*Bloomberry Resorts and Hotels, Inc. Commissioner of Internal Revenue.*"[33]

Considering that the said Protest is a request for reconsideration, respondent had one hundred eighty (180) days from the filing of the protest, or until January 17, 2018, within which to act on the said Protest. Petitioner received the FDDA on January 17, 2018 or well within the 180-day period. Petitioner has thirty (30) days from January 17, 2018 or until February 16, 2018, within which to file its appeal to the CTA. Thus, the Petition for Review was timely filed on February 15, 2018.

In view of the filing of the Petition for Review within the reglementary period to appeal, this Court has jurisdiction to take cognizance of the same.

The Court shall proceed to determine the merits of the case.

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[32] BIR Records, pp. 207-209.
[33] BIR Records, pp. 176-206.

PAGCORs contractees and licensees are exempt from income tax on its gaming operations

The FLD, with attached Details of Discrepancies and Assessment Notice, issued against petitioner, assessing it for income tax on revenues derived from its gaming operations, is void.

A contractee and licensee of PAGCOR, is exempt from income tax on its gaming operations pursuant to PD No. 1869, as amended, otherwise known as PAGCOR Charter. This was the categorical pronouncement of the Supreme Court in *Bloomberry Resorts and Hotels, Inc. vs. Bureau of Internal Revenue, represented by Commissioner Kim S. Jacinto-Henares.*[34]

In *Bloomberry*, PAGCOR granted Bloomberry Resorts and Hotels, Inc. a provisional license to establish and operate an integrated resort and casino complex at the Entertainment City project site of PAGCOR. Being a licensee of PAGCOR, Bloomberry Resorts and Hotels, Inc. pays PAGCOR license fees in lieu of all taxes, as contained in its provisional license and consistent with the PAGCOR Charter, which provides for the exemption from taxes of persons or entities contracting with PAGCOR in casino operations. With the enactment of Republic Act No. 9337, the BIR issued RMC No. 33-2013, which declares, among others, that PAGCOR, in addition to the five percent (5%) franchise tax on its gross revenues, and its contractees and licensees, are subject to the corporate income tax under the NIRC of 1997, as amended.

Bloomberry Resorts and Hotels, Inc. was being held liable to pay corporate income tax, in addition to the five percent (5%) franchise tax. Thus, it immediately elevated the matter before the Supreme Court through a petition for certiorari and prohibition. The Supreme Court had the occasion to finally clarify the taxation of the income from *gaming operations* derived by PAGCOR's contractees and licensees, *viz.*:

> "Bearing in mind the parties involved and the similarities of the issues submitted in the present case, we are now presented with the prospect of finally resolving the confusion caused by the amendments introduced by RA No. 9337 to the NIRC of 1997, and

[34] G.R. No. 212530, August 10, 2016.

the subsequent issuance of RMC No. 33-2013, affecting the tax regime not only of PAGCOR but also its *contractees* and *licensees* under the existing laws and prevailing jurisprudence.

Section 13 of PD No. 1869 evidently states that payment of the 5% franchise tax by PAGCOR and its contractees and licensees exempts them from payment of any other taxes, including corporate income tax, quoted hereunder for ready reference:

> Sec. 13. Exemptions.
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> xxx
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> **<u>(2) Income and other taxes.</u> - (a) Franchise Holder: No tax of any kind or form, income or otherwise, as well as fees, charges or levies of whatever nature, whether National or Local, shall be assessed and collected under this Franchise from the Corporation; nor shall any form of tax or charge attach in any way to the earnings of the Corporation, <u>except a Franchise Tax of five (5%) percent of the gross revenue or earnings derived by the Corporation from its operation under this Franchise.</u>** Such tax shall be due and payable quarterly to the National Government and shall be in lieu of all kinds of taxes, levies, fees or assessments of any kind, nature or description, levied, established or collected by any municipal, provincial, or national government authority.
>
> **(b) Others: The exemptions herein granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, income or otherwise, as well as any form of charges, fees or levies, <u>shall inure to the benefit of and extend to corporation(s), association(s), agency(ies), or individual(s) with whom the Corporation or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise and to those receiving compensation or other remuneration from the Corporation or operator as a result of essential facilities furnished and/or technical services rendered to the Corporation or operator.</u>** (Emphasis and underlining supplied)

As previously recognized, the above-quoted provision providing for the said exemption was neither amended nor repealed by any subsequent laws (i.e. Section 1 of R.A. No. 9337 which amended Section 27(C) of the NIRC of 1997); thus, it is still in effect. Guided by the doctrinal teachings in resolving the case at bench, it is without a doubt that, **<u>like PAGCOR, its contractees</u>**

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> **and licensees remain exempted from the payment of corporate income tax and other taxes since the law is clear that said exemption inures to their benefit.**
>
> We adhere to the cardinal rule in statutory construction that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. As has been our consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.
>
> As the PAGCOR Charter states in unequivocal terms that exemptions granted for earnings derived from the operations conducted under the franchise specifically from the payment of any tax, **income or otherwise**, as well as any form of charges, fees or levies, ***shall inure to the benefit of and extend to*** corporation(s), association(s), agency(ies), or individual(s) with whom the PAGCOR or operator has any contractual relationship in connection with the operations of the casino(s) authorized to be conducted under this Franchise, so it must be that **all contractees and licensees of PAGCOR, upon payment of the 5% franchise tax, shall likewise be exempted from all other taxes, including corporate income tax realized from the operation of casinos.**
>
> For the same reasons that made us conclude in the 10 December 2014 Decision of the Court sitting *En Banc* in G.R. No. 215427 that PAGCOR is subject to corporate income tax for 'other related services', we find it logical that its *contractees* and *licensees* shall likewise pay corporate income tax for income derived from such 'related services.'
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> Simply then, in this case, we adhere to the principle that since the statute is clear and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is the plain meaning rule or *verba legis*, as expressed in the *maxim index animi sermo* or speech is the index of intention.
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> **Plainly, too, upon payment of the 5% franchise tax, petitioner's income from its gaming operations of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, defined within the purview of the aforesaid section, is not subject to corporate income tax.**" (*Boldfacing and underscoring supplied*)

Unless and until modified by the Supreme Court *En Banc*, the doctrine laid down in *Bloomberry* should be applied in determining the taxation of income from gaming operations derived by licensees and contractees of PAGCOR. Indeed, the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justiciable controversy. There is

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only one Supreme Court from whose decisions all other courts should take their bearings.[35]

In the present case, it is undisputed that the income which is being subjected to income tax by respondent pertains to petitioner's income from gaming operations. Records also show that petitioner, having been authorized by PAGCOR to establish and operate casinos through its Provisional License dated June 2, 2008[36] in line with the latter's regulatory and licensing authority under the PAGCOR Charter. Petitioner also paid the five percent (5%) franchise tax due on its gross receipts as franchisee (gambling casinos, gaming clubs, and other similar recreation or amusement places, and gaming pools) in the amount of ₱1,401,759,425.27, whereby PAGCOR remitted the said amount to the BIR as evidenced by PAGCOR's Statement of Franchise Tax Remittances for CY 2012 issued by its Accounting Department[37] and the Schedule of Income and Remittances.[38]

Being a licensee of PAGCOR and having paid the five percent (5%) franchise tax on its gross gaming revenues, petitioner is clearly exempt from tax on its income generated from its gaming operations.

In sum, the payment by petitioner of the five percent (5%) franchise tax on its gaming operations exempts it from the payment of any other taxes, including the corporate income tax imposed under the NIRC of 1997, as amended.

WHEREFORE, premises considered, the Petition for Review is hereby **GRANTED**. Accordingly, the Final Decision on Disputed Assessment dated January 5, 2018, holding petitioner Travellers International Hotel Group, Inc. liable for deficiency income tax in the amount of Four Billion Six Hundred Eleven Million Seven Hundred Seventeen Thousand Three Hundred Forty Nine Pesos and 01/100 (₱4,611,717,349.01), inclusive of increments, for Calendar Year 2012, and the Formal Letter of Demand, with attached Details of Discrepancies and Assessment Notice, dated June 13, 2017, are hereby **DECLARED VOID**, **CANCELLED** and **WITHDRAWN**.

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[35] *Braulio Conde vs. Intermediate Appellate Court*, G.R. No. 70443, September 15, 1986, citing *Tugade vs. Court of Appeals* (85 SCRA 226, 230-231).
[36] *Supra* Note 2.
[37] Exhibit P-4, CTA Docket, Vol II, p. 856.
[38] *Id*, p. 857.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

CATHERINE T. MANAHAN
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.

ROMAN G. DEL ROSARIO
Presiding Justice