

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**JENNIFER SYLEE
CHIU,**

CTA CASE NO. 11538

Petitioner, Members:

- versus -

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

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

SEP 22 2026

4:21 PM

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RESOLUTION

For resolution is respondent's ***Omnibus Motion [(1) For Reconsideration of the Resolution dated April 14, 2026; and (2) For Deferral of the Presentation of Respondent's Evidence pending resolution of the Motion for Reconsideration]***, filed on May 12, 2026, without comment from petitioner,¹ as confirmed by the Records Verification dated July 2, 2026.

Respondent seeks reconsideration of the Resolution dated April 14, 2026, which denied his demurrer to evidence. He likewise prays that the presentation of his evidence be deferred pending the resolution of the instant *Omnibus Motion*.

Respondent emphasizes that, on August 4, 2025, petitioner filed a *Manifestation* stating that she would no longer present evidence and expressly waived her right to testify in the present case, to which the Court deemed it as such. Respondent asserts that, under the present facts and the law, the lack of evidence presented by petitioner did not sustain the cause of action alleged in her *Petition for Review*, which should be dismissed for insufficiency of evidence.

¹ Records Verification dated July 2, 2026.

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Respondent maintains that as a rule, tax assessments are presumed correct and made in good faith, and it is upon the taxpayer to prove otherwise. Thus, in the absence of proof of any irregularities in the performance of official duties, an assessment would not be disturbed. Purportedly, the burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue (CIR) is wrong, but also that the taxpayer is right.

Citing Section 1, Rule 131 of the Rules of Court, respondent stands that the *onus probandi* is on the taxpayer establishing its claim by the amount of evidence required by law and must discharge this burden before it may be shifted. Respondent also contends that basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence, and parties must rely on the strength of their own evidence, not upon the weakness of the defense.

Respondent further claims that petitioner failed to adduce evidence to support her claim that the assessments are void as there was no evidence, testimonial or documentary, to prove any defect in the said assessments. Hence, according to respondent, the validity of the assessments must stand. He likewise submits that the service of the assessment notices by the revenue officers is presumed regular and valid.

In sum, respondent posits that petitioner failed to establish any right to the reliefs sought; hence, the case must be dismissed and the assailed assessment upheld.

Respondent's *Omnibus Motion* lacks merit.

True, tax assessments are presumed correct. However, even if the assessment is correct, it must still comply with the requirements of procedural due process, including proper service of the assessment.

It bears emphasizing that respondent must observe not only substantive due process but also procedural due process in the issuance and enforcement of tax assessments.

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As explained in the assailed Resolution, petitioner's categorical denial of receipt of the assessment notices shifted the burden to prove the actual service of the assessment to respondent.

It is a general rule that when service of notice is an issue, the person alleging that the notice was served must prove the fact of service. The burden of proving notice rests upon the party asserting its existence.²

In tax cases involving assessment notices, jurisprudence³ consistently adopts the general rule that the party alleging that the notice was served must prove the fact of service when service of notice is an issue. In this case, respondent alleges that the assessment notices were duly served upon petitioner; hence, respondent bears the burden of proving such allegation.

Thus, assuming the Court concedes the correctness of the subject assessment, respondent must still prove proper service in view of petitioner's categorical denial of receipt of the same assessment.

It must likewise be stressed that tax assessments issued in violation of a taxpayer's due process rights – substantive or procedural - are null and void.⁴

More importantly, a further examination of the parties' arguments and the records of the case shows that respondent's right to collect the assessment, as evidenced by the assailed Formal Letter of Demand (FLD)⁵/Final Assessment Notice (FAN)⁶, is already barred by prescription. Thus, even assuming the subject assessment was correct and properly served on petitioner, respondent may no longer enforce collection of the assessed deficiency taxes.

As noted in the assailed Resolution, to support the reliefs sought in her *Petition for Review*, petitioner alleges, among others, that the **period to assess** has prescribed since she received the Preliminary Assessment Notice (PAN) and FLD/FAN

² *Alburo v. People*, G.R. No. 196289, August 15, 2016 [Per J. Peralta, Third Division].

³ *Commissioner of Internal Revenue v. T Shuttle Services, Inc.*, G.R. No. 240729, August 24, 2020 [Per J. Inting, Second Division]; *Commissioner of Internal Revenue v. GJM Philippines Manufacturing, Inc.*, G.R. No. 202695, February 29, 2016 [Per J. Peralta, Third Division]; *Barcelon, Roxas Securities, Inc. v. Commissioner of Internal Revenue*, G.R. No. 157064, August 7, 2006 [Per J. Chico-Nazario, First Division].

⁴ *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, G.R. Nos. 201398-99 *et al.*, October 3, 2018 [Per J. Leonen, Third Division].

⁵ Docket, p. 155, Exhibit "R-7-a".

⁶ *Id.* at 152, Exhibit "R-7".

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only on May 27, 2024, more than 14 years past the period of limitation.⁷

While petitioner specifically invokes prescription of respondent's right to assess, the Court is not precluded from determining whether respondent's **right to collect** has likewise prescribed where such issue is apparent from the pleadings and the evidence on record.

Under Section 1, Rule 9 of the Rules of Civil Procedure, as amended, the Court may dismiss a claim when it appears from the pleadings or evidence on record that the action is barred by the statute of limitations, thus:

Section 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that **the action is barred** by a prior judgment or **by statute of limitations, the court shall dismiss the claim.** (Emphasis supplied)

In *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division and QL Development, Inc. (QL Development)*⁸ the Supreme Court explained that an assessment is deemed made, and the period for collection begins to run, upon the release, mailing, or sending of the assessment notice to the taxpayer. The Court further reiterated that where an assessment is validly issued within the ordinary three-year period under Section 203 of the NIRC of 1997, as amended, the CIR has another three (3) years within which to collect the assessed taxes through **distraint, levy, or judicial action, viz.:**

In *CIR v. United Salvage and Towage (Phils.), Inc.*, the Court held that **in cases of assessments issued within the three-year ordinary period, the CIR has another three years within which to collect taxes**, thus:

The statute of limitations on assessment and collection of national internal revenue taxes was shortened from five (5) years to three (3) years by virtue of Batas Pambansa Blg. 700. Thus, petitioner has three (3) years from the date of

⁷ *Id.* at 11, Petition for Review, 3rd paragraph.

⁸ G.R. No. 258947, March 29, 2022 [Per J. Caguioa, First Division].

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actual filing of the tax return to assess a national internal revenue tax or to commence court proceedings for the collection thereof without an assessment. However, **when it validly issues an assessment within the three (3)-year period, it has another three (3) years within which to collect the tax due by distraint, levy, or court proceeding.** The assessment of the tax is deemed made and the three (3)-year period for collection of the assessed tax **begins to run on the date the assessment notice had been released, mailed or sent to the taxpayer.**

....

Here, **given that the subject assessment was issued within the three-year ordinary prescriptive period to assess, the CIR had another three years to initiate the collection of taxes by distraint or levy or court proceeding.** (Emphasis supplied, citations omitted)

On the other hand, Section 222 of the NIRC of 1997, as amended, provides exceptions to the ordinary three-year period to assess and collect taxes, to wit:

SEC. 222. *Exceptions as to Period of Limitation of Assessment and Collection of Taxes.* —

....

(a) **In the case of a false or fraudulent return with intent to evade tax or of failure to file a return,** the tax may be assessed, or a proceeding in court for the collection of such tax may be filed without assessment, at any time **within ten (10) years after the discovery of the falsity, fraud or omission:** Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

(b) 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.

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(c) Any internal revenue tax which has been assessed within the period of limitation as prescribed in paragraph (a) hereof **may be collected by distraint or levy or by a proceeding in court within five (5) years** following the assessment of the tax. (Emphasis supplied)

As such, when the Bureau of Internal Revenue (BIR) validly issues an assessment within the prescribed three-year period under Section 203 of the NIRC of 1997, as amended, it has another three years to collect the tax. Two principal exceptions exist. *First*, when the assessment is issued within the extraordinary period of ten (10) years in cases of false or fraudulent returns or failure to file a return under Section 222 of the NIRC of 1997, as amended, the BIR has five (5) years to pursue collection efforts. *Second*, when both the CIR and the taxpayer have agreed in writing to extend the period for assessment and collection, the tax may be assessed or collected within the period agreed upon.

Further, under Section 223 of the NIRC, the running of the prescriptive periods under Sections 203 and 222 may be suspended in specific instances, including when the taxpayer requests a reinvestigation and such request is granted by the CIR, *viz.*:

SEC. 223. *Suspension of Running of Statute of Limitations.* - **The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period** during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; **when the taxpayer requests for a reinvestigation which is granted by the Commissioner;** when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected: (Emphasis supplied)

In this case, the PAN,⁹ FLD,¹⁰ and FAN¹¹ indicate that respondent applied the **ordinary three-year period** with respect to the deficiency Income Tax and VAT assessments, but invoked the **extraordinary ten-year period** with respect to the deficiency Expanded Withholding Tax (EWT) assessment. Notably, respondent imposed a 25% surcharge on the deficiency EWT "in view of [petitioner's] failure to file and pay the [EWT]

⁹ Docket, p. 149, Exhibit "R-6".

¹⁰ *Id.* at 152, Exhibit "R-7".

¹¹ *Id.* at 155, Exhibit "R-7-a".

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due for the months of March, July and August” within the time prescribed by law.¹²

Moreover, in his *Answer*,¹³ respondent claims that his right to collect petitioner’s deficiency tax liabilities had not prescribed and asserted that, under Section 222 of the NIRC of 1997, as amended, the BIR had **five years** within which to enforce collection. At the same time, however, respondent specifically alleged that the FLD/FAN was issued on January 16, 2009 and that he had only until **January 16, 2012** within which to collect the deficiency taxes stated therein, *viz.*:

38. Contrary to petitioner’s allegations, respondent’s right to collect did not prescribe. Respondent has already begun collecting the former’s deficiency taxes when it issued a Preliminary Collection Letter on 05 October 2009.

39. As stated by petitioner in its *Petition*, Section 203 of the Tax Code provides for the three (3)-year period to assess taxes and three (3) years to collect taxes. However, Section 222 of the same code clearly states that in regular and fraud assessments, **BIR is given five (5) years to collect assessed taxes.**

40. **In the instant case, the [FAN/FLD] was issued by respondent on 16 January 2009, hence, respondent has until 16 January 2012 to collect the deficiency taxes therein.** Hence, the issuance of the PCL on 05 October 2009 was clearly within the prescribed period to collect.

....

42. Moreover, since petitioner failed to file a valid protest to the FLD, it is as if no protest letter was filed, petitioner cannot expect to receive a decision on any disputed assessment. Following, this, the Preliminary Collection Letter it received effectively operates as a collection letter against it, calling for the payment of its deficiency taxes already final and executory.

43. To emphasize, as early as the issuance of the PCL on 05 October 2009, respondent has already employed collection efforts for the satisfaction of petitioner’s deficiency tax liabilities. Hence, respondent’s right to collect did not prescribe.¹⁴

¹² *Id.* at 150-151, Exhibit “R-6”; 153-154, Exhibit “R-7”.

¹³ *Id.* at 69-82.

¹⁴ Docket, pp. 77-78.

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Significantly, respondent's own allegations show that, according to his computation, he had until **January 16, 2012** within which to collect the assessed deficiency taxes. Nevertheless, even assuming, for the sake of argument, that respondent is correct in asserting that Section 222 grants him a **five-year period** within which to collect, the latest date by which collection could have been validly pursued would only be **January 16, 2014**, reckoned from the issuance of the FLD/FAN on **January 16, 2009**.

As explained in *QL Development*, collection may be validly initiated only through **distrain, levy, or judicial action**. This doctrine has since been consistently maintained in subsequent cases.¹⁵

Consequently, the issuance of a Preliminary Collection Letter (PCL) is not among the recognized modes of initiating collection. Likewise, neither the Second Collection Letter dated November 18, 2009, nor the Final Notice Before Seizure dated May 28, 2010, constitutes a valid commencement of collection proceedings sufficient to satisfy or interrupt the running of the prescriptive period. At most, these documents are mere collection notices; they do not amount to distraint, levy, or judicial action as contemplated by law and jurisprudence.

Here, collection through distraint and levy was undertaken through the issuance of Warrants of Distraints and/or Levy (WDL) and Warrants of Garnishment (WoG). However, the earliest WDL was issued only on **January 27, 2014**,¹⁶ and was not even served upon petitioner. Similarly, the earliest WoG was served only on **January 30, 2014**.¹⁷ As for judicial collection, respondent is deemed to have instituted such action only upon filing his *Answer* on **September 9, 2024**.

Thus, whether the Court adopts respondent's own allegation that he had only until **January 16, 2012** to collect the assessed deficiency taxes, or assumes in his favor the more liberal five-year period ending on **January 16, 2014**, the conclusion remains the same: no valid collection proceeding through distraint, levy, or judicial action was commenced within the applicable prescriptive period. Consequently,

¹⁵ *Commissioner of Internal Revenue v. Standard Insurance Co., Inc.*, G.R. No. 259729, November 17, 2025 [Per J. Singh, Third Division], *Commissioner of Internal Revenue v. Stradcom Corp.*, G.R. No. 255520, April 21, 2025 [Per J. Caguioa, Third Division], *People v. Mendez*, G.R. Nos. 208310-11 & 208662, March 28, 2023 [Per J. Lopez, M., *En Banc*].

¹⁶ Docket, p. 159, Exhibit "R-11".

¹⁷ *Id.* at 160, Exhibit "R-12".

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respondent's right to collect the subject deficiency taxes has prescribed.

In fine, prescription has clearly set in. Under these circumstances, it becomes legally pointless to proceed to trial on the merits. To further litigate the merits of petitioner's alleged deficiency tax liabilities, which have already been extinguished by the passage of time, would be a futile exercise and a waste of judicial time.

WHEREFORE, premises considered, the Court **RESOLVES** to:

1. **DENY** the Commissioner of Internal Revenue's ***Motion for Reconsideration of the Resolution dated April 14, 2026*** for lack of merit;
2. **DECLARE MOOT AND ACADEMIC** the Commissioner of Internal Revenue's ***Motion for Deferral of the Presentation of Respondent's Evidence Pending Resolution of the Motion for Reconsideration***;
3. **GRANT** the ***Petition for Review*** filed by Jennifer Sylee Chiu on the ground that respondent's right to collect the assessed deficiency taxes has prescribed; and
4. **PERMANENTLY ENJOIN** the Commissioner of Internal Revenue, including his authorized officers, agents, or representatives, from enforcing or undertaking any collection action with respect to the assessed deficiency taxes subject of this case.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA

Associate Justice


LANEE S. CUI-DAVID

Associate Justice


PAOLO S. TESTON

Associate Justice