

****Title:**** ING Bank N.V. vs. Commissioner of Internal Revenue: A Matter of Documentary Stamp Tax and the Tax Amnesty Program

****Facts:****

This case revolves around the petition filed by ING Bank N.V. Manila Branch against the Commissioner of Internal Revenue regarding deficiency taxes assessment for the years 1996 and 1997. The Supreme Court's initial decision on July 22, 2015, partially granted ING Bank's petition under the Rule 45 Petition, setting aside assessments for deficiency documentary stamp taxes for 1996 and 1997 and deficiency tax on onshore interest income for 1996 due to the bank's availment of the tax amnesty program under Republic Act No. 9480. However, the Court affirmed the Court of Tax Appeals En Banc's April 5, 2005 decision holding ING Bank liable for deficiency withholding tax on compensation for 1996 and 1997 totaling P564,542.67 inclusive of interest.

The Commissioner of Internal Revenue filed a Motion for Partial Reconsideration, contesting the inclusion of documentary stamp taxes in the tax amnesty granted by Republic Act No. 9480. The Commissioner argued based on the Bureau of Internal Revenue's Revenue Memorandum Circular No. 19-2008 that documentary stamp taxes, ruled by any court in favor of the Bureau prior to amnesty availment, were excluded from the tax amnesty coverage. The Supreme Court found this argument unconvincing, noting that tax cases subject to final and executory judgment by courts are the ones excluded from the tax amnesty.

****Issues:****

1. Whether documentary stamp taxes are excluded from the tax amnesty granted by Republic Act No. 9480.
2. Whether administrative issuances like Revenue Memorandum Circulars can amend or modify the law.
3. The proper identification of the liable party for the documentary stamp tax under specific transactions.

****Court's Decision:****

The Supreme Court denied the Motion for Partial Reconsideration with finality. The Court ruled that documentary stamp taxes are covered by the Tax Amnesty Program under Republic Act No. 9480, which includes all national internal revenue taxes for the taxable year 2005 and prior years that have remained unpaid as of December 31, 2005. The Court asserted that administrative issuances cannot amend or modify the law, dismissing the

Bureau's reliance on Revenue Memorandum Circular Nos. 69-2007 and 19-2008 to exclude documentary stamp taxes from the tax amnesty. The Court also found that documentary stamp taxes on special savings accounts are direct liabilities of the bank and not merely taxes passed on and collected from customers for remittance to the Bureau.

****Doctrine:****

1. Taxpayers with pending tax cases are eligible to avail of the tax amnesty program, excluding those with tax cases subject to final and executory judgment by courts.
2. Administrative issuances cannot amend or modify the law they seek to apply and implement.
3. Documentary stamp taxes are considered a direct liability of the issuing entity and are covered by the Tax Amnesty Program under Republic Act No. 9480.

****Class Notes:****

- Tax Amnesty: A program that allows taxpayers to settle unpaid taxes for previous years, exempting certain cases such as those with final and executory judgments.
- Documentary Stamp Tax: A tax imposed on documents, instruments, loan agreements, and papers evidencing transactions.
- Administrative Issuances: Interpretations of tax laws by executive officers, which must remain consistent with the law and cannot override legislative provisions.

****Historical Background:****

This case provides insight into the legal interpretations surrounding tax amnesty programs and the scope of taxes covered under such amnesties in the Philippines. It underscores the principle that legislative enactments are supreme over administrative issuances and clarifies the application of documentary stamp taxes within the context of tax amnesty availment, establishing a precedent for handling similar cases in the future.