

PR Supreme Court Clarifies Jurisdictional Payment Requirement to Challenge Real Property Tax

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Tax Litigation

McV's Tax Litigation Practice Team scored a significant victory when the Puerto Rico Supreme Court clarified when a taxpayer challenging a real property tax imposed by the Municipal Revenue Collection Center ("CRIM") is obligated to pay the total or part of the amount imposed as a jurisdictional payment under the Municipal Property Tax Act (Act No. 83-1991) ("MPTA"). The Court ruled that when a taxpayer challenges the valuation methodology used it does not equate to a challenge of the totality of the tax imposed so as to require payment of 100% of the tax as a jurisdictional prerequisite to the challenge.

In [LifeScan Products LLC v. CRIM](#), CC-2014-0321, Op. August 19, 2015, the Puerto Rico Supreme Court clarified the standard previously established in [Lilly del Caribe v. CRIM](#), 185 D.P.R. 239 (2012), regarding the amount a taxpayer must pay under Article 3.48 of the MPTA. The Court ruled that when the taxpayer questions the methodology used by the CRIM to value the property subject to the tax, the taxpayer is not required to pay 100% of the tax under Article 3.48 of the MPTA. In such cases, the Court ruled, as LifeScan did, that the taxpayer need only to pay 100% of the portion of the tax that is correct and 40% of the challenged debt, without considering the discount for early payment.

LifeScan, represented by McV, challenged the property tax imposed by the CRIM for fiscal year 2010-2011 claiming that the property valuation used by CRIM to notify the corresponding tax levy is excessive because CRIM used a valuation formula that contains a fixed modification factor that is contrary to the constitutional principle of uniformity and to scientific valuation principles. CRIM moved to dismiss the complaint arguing that because LifeScan was challenging the methodology and formula used to value the property, it was the equivalent of challenging the totality of the real property tax imposed. Since LifeScan had not paid 100% of the tax amount as jurisdictional payment under Article 3.48 of the MPTA, CRIM argued that the Court lacked jurisdiction over the case. LifeScan argued that it was not challenging the totality of the tax imposed but was essentially requesting a revaluation because it claimed that the methodology used was erroneous. The Court of First Instance dismissed the case and the Court of Appeals affirmed.

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The Supreme Court reversed the Court of Appeals decision. It ruled that LifeScan was in agreement with part of the tax imposed and was only challenging part of it. The Court understood that CRIM's limited interpretation -- equating challenging the valuation to challenging the total amount of the tax imposed-- could not be sustained under the Act. The Court found that LifeScan was challenging the formula used to determine the tax, not the imposition of the tax.

Recognizing that Article 3.48 establishes two scenarios, the Supreme Court clarified that to adopt CRIM's interpretation would be nonsensical. "Technically and inevitably, every tax debt imposed by CRIM that is challenged would entail a challenge of the total amount imposed". (Translations ours). The Court opined that Article 3.48 does not leave room for such an interpretation and would make the two jurisdictional payment options provided by the Legislature inoperative.

Contrary to Lilly del Caribe, the Court explained, LifeScan did not state that it was in disagreement with the total tax imposed by the CRIM but instead recognized that part of the debt was correct and in fact paid that amount. Accordingly, the Court understood LifeScan was only challenging part of the tax imposed and had complied with Article 3.48 of the MPTA.

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