



Republic of the Philippines
DEPARTMENT OF FINANCE

Roxas Boulevard Corner Pablo Ocampo, Sr. Street
Manila 1004

DOF Opinion No. 013.2018

MR. GARRY S. PAGASPAS

Partner

G. PAGASPAS PARTNERS & CO. CPAs

U2309 Cityland Herrera Tower, V.A Rufino St.

Makati City, Metro Manila, Philippines

SUBJECT: Request for Reconsideration of DOF's Review of Bureau of Internal Revenue Ruling No. 60-2018

Dear **Mr. Pagaspas**:

This refers to your letter dated 9 July 2018 ("Request for Reconsideration"), filed on behalf of Berean Bible Baptist Church (Garden Valley) Inc. ("Berean"), requesting for reconsideration of the decision of the Department of Finance (DOF) dated 8 June 2018 denying the request for review ("Request for Review") of Bureau of Internal Revenue ("BIR") Ruling No. 60-2018 dated 24 January 2018.

As a brief recap, BIR Ruling 60-2018 was received by Berean on 30 January 2018. A taxpayer is given thirty (30) days from the receipt of a BIR ruling to seek a review of such ruling to the Secretary of Finance. Contrary to the declaration of the Request for Review that Berean had until 2 March 2018 to file the request, it actually only had until 1 March 2018 to file a request for review of the said ruling to the Secretary of Finance. On the basis therein, the Request for Review was denied for failure to file within the reglementary period provided under DOF Department Order No. 007-02.

Noteworthy is that the right to appeal is neither a natural right nor a part of due process, except where it is granted by statute, in which case, it should be exercised in the manner and in accordance with the provisions of law. In other words, appeal is a right of statutory and not of constitutional origin. **The perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional.**¹

It is true that rules of procedure are mere tools designed to facilitate the attainment of justice and their strict and rigid application which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided and they cannot be blindly adhered to if they would serve no other purpose than to put into oblivion the very *lis mota* of the controversy under scrutiny. However, there are certain procedural rules that must remain inviolable like those setting the periods for perfecting an appeal or filing a Petition for Review, for it is doctrinally entrenched that **the right to appeal is a statutory right and one who seeks to avail of that right must comply with the statute or rules.** These rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business.²

¹ *Manila Memorial Park Cemetery, Inc. v. Court of Appeals*, 398 Phil. 720, 729 (2000).


² *Petilla v. Court of Appeals*, G.R. No. 150792, 3 March 2004.

After all, a denial of a petition for being time-barred is a decision on the merits.³ Accordingly, inasmuch as the timely perfection of an appeal is a jurisdictional requisite, the DOF has no more authority to entertain the appeal of Berean.

Hence, on the basis of the foregoing, we *deny* the subject Request for Reconsideration for lack of merit.

Thank you.

Sincerely yours,

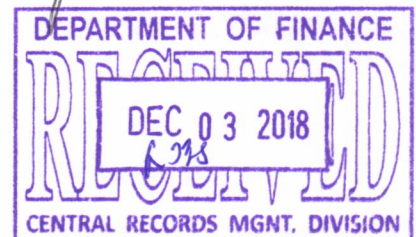

CARLOS G. DOMINGUEZ
Secretary of Finance
NOV 20 2018

CC / **Commissioner Caesar R. Dulay**
Bureau of Internal Revenue

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Berean Bible Baptist Church (Garden Valley) Inc.
B3 L17 Magdiwang Subd., Molino III, Bacoor, Cavite

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³ Videogram Regulatory Board v. Court of Appeals, G.R. No. 106564, 28 November 1996.