

Taxation of Foreign Corporations: A
Commentary on Marubeni v.
Commissioner of Internal Revenue

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SUBJECT(S): TAXATION LAW,

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This Comment tackles the Supreme Court decision in *Marubeni v. Commissioner of Internal Revenue (CIR)* (177 SCRA 500 (1989)) and points out the unwarranted precedent it creates. In short, the case began when Marubeni Corp. filed a claim for the refund of the 15% branch profit remittance tax. The claim was based on a Bureau of Internal Revenue (BIR) ruling saying that since the remittance of dividends received by Marubeni from its subsidiary were not related to doing business in the Philippines, they should not be subject to the remittance tax. This claim was denied by the CIR on the ground that the profits subject to tax were not that of the subsidiary but connected to the main business of Marubeni Corporation in Japan. The CIR decision was upheld by the Supreme Court. The Comment goes into a discussion on the merits of the decision in light of former rulings and other BIR issuances. The Authors essentially argue that the BIR was wrong in assessing the tax on Marubeni Corp. and at the very least, that when there is doubt in the interpretation of the National Internal Revenue Code, tax laws should be construed strictly against the state and favorably for the taxpayer.