



KPMG



In Tax

Special Issue - November 14, 2007

A Publication of Manabat Sanagustin & Co.

Special Issue

BIR Clarifies Tax Amnesty

- Issues RMC 69-2007

New

"Outstanding professionals working
together to deliver value"

Revenue Memorandum Circular No. 69–2007

RMC No. 69–2007 dated 5 November 2007 was issued for the purpose of clarifying certain issues in the availment of the Tax Amnesty Program (TAP) under Republic Act No. 9480 (RA 9480) entitled “*An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years*” and implemented by Department Order No. 29–07 (DO29–07).

Presented in the form of a Q&A in the RMC, the salient features are as follows:

Coverage of the TAP

- All national internal revenue taxes as of 31 December 2005 and previous years, except withholding taxes and taxes passed–on and already collected from customers for remittance to the BIR.
- Donor’s and capital gains tax: only for underdeclarations /undervaluations previously issued with a Certificate Authorizing Registration (CAR).
- Cases subject of criminal complaint filed with the DOJ except Run–After–Tax–Evaders (RATE) and tax evasion cases
- Taxable Year 2005 includes all taxable years which end in any month of the year 2005, whether calendar or fiscal year.

Exclusions from TAP

- Delinquent Accounts/Accounts Receivable and unpaid self–assessed taxes, as of date of amnesty availment.
- Taxpayers with agreement with the BIR for payment of deficiency taxes, whether in full or installment basis can no longer avail of TAP for such particular tax case.
- Assessments which are final and executory prior to amnesty availment.
- Cases covered by compromise program or abatement program of the BIR, insofar as the tax subject of the compromise/abatement is concerned



Qualified Taxpayers

- Individuals and juridical entities, including representative offices and branches, and ecozone and Freeport entities
- Surviving or new corporations may avail of TAP on behalf of absorbed or dissolved corporations pursuant to a merger or consolidation that took effect prior to TY2005 for purposes of obtaining tax clearances.
- Retiring companies under liquidation and/or dissolution.

Effective period to avail TAP

- Qualified taxpayers have until **6 March 2008** to avail of TAP

Basis for computing the tax amnesty payment and prescribed rates

- Qualified taxpayers who have **no previously filed statements of assets, liabilities and networth (SALN)/balance sheet as of 31 December 2005**: the higher amount between the 5% of the networth as of 31 December (or any month–end in 2005) as declared in the SALN or the minimum amnesty payments.
- Qualified taxpayers **who have previously filed their SALN /balance sheet together with their income tax returns for taxable year 2005** and who desire to avail of the tax amnesty shall amend their previously filed statements by including still undeclared assets and/or liabilities: 5% based on the resulting increase in the networth or the minimum amount prescribed by the Tax Amnesty Law, whichever is higher.

Valuation Rules to be observed in the availment of TAP

- **For Corporations**: generally value all assets, liabilities and networth following PFRS/IFRS
- **For Individuals**: GAAP for business–related assets, liabilities and networth. For non–business–related assets, liabilities & networth, valuation shall be at cost, if acquired through purchase or at Fair Market Value (FMV), if acquired through inheritance or donation
- **For Cooperatives, Foundations, and Partnerships**: the mandated rules of SEC, Cooperative Development Authority (CDA), etc.
- **For Estates** under administration : GAAP. Otherwise, GAAP will be used for business–related assets, and valued at cost if acquired by purchase or FMV, if acquired through donation or inheritance, for non–business–related assets/liabilities
- **For Trusts**: GAAP



Procedures for availment of TAP

- Accomplish and submit Notice of Availment Form, SALN, Tax Amnesty Form (BIR Form No. 2116), Payment Form (BIR Form No. 0617), together with the prescribed supporting documents
- Pay the amnesty tax using BIR Form No. 0617 to the appropriate agent bank or BIR collection agent
- Residents shall file the above amnesty forms with the BIR office with jurisdiction over them. Nonresidents shall file with the Office of the Commissioner or any Revenue District Office (RDO).

Others

- Taxpayers who filed their correct networth and have no additional assets to declare can avail of TAP by paying the required amnesty tax.
- Balance Sheet, for TAP purposes, should be converted into the SALN format.
- **Amendments of 2006 Balance Sheet** are allowed even after letters of Authority (LA)s, Tax Verification Notices (TVNs) or Audit Notices (ANs) are issued **only if the taxpayer avails of the TAP**. Amendments are limited to the increase in previously declared business-related assets and networth.
- The SALN can be presented in US dollar or the company's **functional currency** provided that the peso value shall also be shown using the exchange rate as of Balance Sheet date.
- **LAs or TVNs for 2005 and prior taxable years** may still be issued to taxpayers who availed of TAP to audit withholding taxes, unpaid self assessed taxes and funds collected from customers held in trust for the Government.
- LAs/TVNs or ANs for ongoing examination shall be **deemed cancelled** upon presentation of proof of availment of TAP corresponding to that taxable period under examination except those specifically excluded by law.
- Duly protested FAN, as a rule, can be covered by TAP.
- Only companies reflecting positive networth can avail of TAP.
- Payments under NAP, IVAP, and EVAP are not allowed to be deducted from TAP payments.
- Amnesty tax is a **non-deductible expense** for tax purposes.
- There is only one application for the tax amnesty covering taxable year 2005 and prior years and not an application on a per year basis.
- Only **CASH** payments are allowed as payment of the Amnesty Tax which must be paid in **full**.
- The amended 2005 SALN/Balance Sheet for TAP purposes **does not require the opinion of an independent auditor**.
- A SALN already filed under TAP may still be amended but only to reflect additional asset with corresponding increase in networth. No reduction in payment is allowed.



The foregoing is a summary of the pertinent provisions of the subject RMC and is for information purposes only. Everybody is encouraged to read the full text of the said RMC. For inquiry, please contact, Ma. Georgina J. Soberano at tel. no. 885700 ext. 319 or Alma L. Barcelo at loc. 318.

Contact us

Manabat Sanagustin & Co.

Manila-Head Office:

22nd Floor, Philamlife Tower
8767 Paseo de Roxas
Makati City, Metro Manila, Philippines
Telephone: + 63 2 885 7000
+ 63 2 893 8507
Facsimile: + 63 2 894 1985
+ 63 2 816 6595
E-mail: manila@kpmg.com.ph

Subic Office:

Units 126 & 128, Ground Floor
Alpha Building, Subic International Hotel
Compound
Rizal corner Sta. Rita Roads
Subic Bay Freeport Zone, 2222, Philippines
Telephone: + 63 47 252 2825
Facsimile: + 63 47 252 2826
E-mail: subic@kpmg.com.ph

Cebu Office:

Unit 503, 5/F Keppel Center
Samar Loop corner Cardinal Rosales Ave.
Cebu Business Park
Cebu City, Philippines
Telephone: + 63 32 233 9325
Facsimile: + 63 32 233 9327
E-mail: cebu@kpmg.com.ph

Iloilo Office:

2nd Flr., Uy Bldg., Sen. B. Aquino Ave.
Mandurriao, Iloilo City
5000 Philippines
Telephone: + 63 33 321 3821
+ 63 33 321 3822
Facsimile: + 63 33 321 3823
E-mail: iloilo@kpmg.com.ph

Bacolod Office:

Suite 3, Doll Building
6th Street, Bacolod City
6100 Philippines
Telephone: + 63 34 433 1962
+ 63 34 434 9225
Facsimile: + 63 34 434 8015
E-mail: bacolod@kpmg.com.ph

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

©2007 Manabat Sanagustin & Co., certified public accountants, a professional firm established under Philippine law, is a member of the KPMG network of independent member firms affiliated with KPMG International, a Swiss cooperative. All rights reserved. Printed in the Philippines.