

August 1, 2001

REVENUE REGULATIONS NO. 8 - 2001

SUBJECT : Voluntary Assessment Program Granting Taxpayers the Privilege of Last Priority in the Audit and Investigation of All Internal Revenue Taxes for the Taxable Year Ending December 31, 2000 and all Prior Years Under Certain Conditions.

TO : All Internal Revenue Officers and Others Concerned.

Pursuant to Section 6(a), in relation to Section 244, of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to establish the policy and procedures governing the availment by taxpayers of the privilege of last priority in the audit and investigation of all internal revenue taxes, including improperly accumulated earnings tax, for the taxable year ending December 31, 2000 and all prior years.

POLICY STATEMENT

To maximize revenue collection with least administration costs, to encourage voluntary tax compliance, and to maintain harmonious relation with taxpayers by minimizing inconvenience relative to investigation, the taxpaying public is hereby granted the opportunity to avail of this Program in accordance with the rules herein prescribed.

SECTION 1. COVERAGE. — The privilege of last priority in the audit and investigation herein granted shall apply to all internal revenue taxes covering the taxable year ending December 31, 2000 and all prior years, including one-time transactions such as estate tax, donor's tax, capital gains tax, expanded withholding tax and documentary stamp tax on the sale, exchange, or disposition of real property and/or shares of stocks.

This Program shall likewise cover taxpayers enjoying preferential tax treatment.

Any person, natural or juridical, including estates and trusts, liable to pay any of the above-cited internal revenue taxes for the above specified period/s who, due to inadvertence or otherwise, erroneously paid his internal revenue tax liabilities or failed to file tax return/pay taxes may avail of the Voluntary Assessment Program (VAP), except those falling under any of the following instances:

1.1 Those covered by a Preliminary Assessment Notice (PAN), Final Assessment Notice (FAN) , or Collection Letter issued on or before July 31, 2001; or

1.2 Persons under investigation as a result of verified information filed by a Tax Informer under Section 282 of the Tax Code of 1997, duly processed and recorded in the BIR Official Registry Book on or before July 31, 2001;

1.3 Tax fraud cases already filed and pending in courts for adjudication; and

1.4 Those with unpaid tax liability as reflected in the books of accounts/records or financial statements and tax return of the covered period unless they first pay the same (i.e., DST payable, withholding tax payable, and unpaid individuals' second installment of income tax, etc.).

If the unpaid liability was not settled prior to payment of the VAP amount, taxpayer may still be issued the Certificate of Qualification for this Program upon proof of settlement of the said unpaid tax liability. (See Section 3, example No. 3)

SEC. 2. TAXPAYER'S BENEFIT FROM AVAILMENT OF THE VAP. -

A taxpayer who has availed of this VAP shall not be audited except upon authorization and approval by the Commissioner of Internal Revenue when there is a strong evidence or finding of understatement in the payment of taxpayer's correct tax liability by more than thirty percent (30%): Provided, however, that any VAP payment should be allowed as tax credit against the deficiency tax due, if any, in case the concerned taxpayer has been subjected to tax audit.

SEC.3. CONDITIONS FOR AVAILMENT AND MANNER OF COMPUTING THE VAP AMOUNT DUE . - The VAP applicant-taxpayer shall signify his intention to avail of last priority in the audit and investigation by filing his application and paying the VAP amount with the appropriate BIR collection agent [Accredited Agent Bank (AAB) or Revenue Collection Officer (RCO)/Deputized Municipal Treasurer (DMT) , in the absence of AAB] using BIR Form to be prescribed by the Commissioner subject to the following conditions:

- a. **In case there are returns filed in the current (covered) year. -** The VAP amount to be paid shall not be less than the highest amount computed in all of the following three (3) conditions or the actual unpaid tax due for the taxable period covered by the VAP availment, whichever is higher:

Kind of Tax	Condition No. (1) Covered Year	Condition No. (2) Sales of Covered Year	Condition No.(3) Minimum Amount
Income Tax	<ul style="list-style-type: none"> • 20% (for Year 1999 and prior years)/30% (for Calendar Year 2000) of tax due per tax return of the covered year if the ratio of the tax due per return over the annual gross sales/receipts for the year does not exceed two and one-half percent (2.5%) • 10% (for Year 1999 and prior years)/15% (for Calendar Year 2000) of tax due per tax return of the covered year if the ratio of the tax due per return over the annual gross sales/receipts for the year exceeds two and one-half percent (2.5%) 	<ul style="list-style-type: none"> • 0.5% of total sales/receipts for individual taxpayer less tax due and paid per tax return filed in the covered year • 2% of total sales/receipts in case of corporation less tax due and paid per tax return filed in the covered year 	<ul style="list-style-type: none"> • P10,000 for individual • P50,000 for corporation
Improperly Accumulated Earnings Tax	<ul style="list-style-type: none"> • 5% of the improperly accumulated earnings tax due on improperly accumulated taxable income earned starting January 1, 1998. 		
Value Added Tax (VAT)	<ul style="list-style-type: none"> • 20% of the total output tax declared per VAT returns filed for the covered year if the ratio of the VAT payments over the gross sales/receipts for the year does not exceed three percent (3%) 	<ul style="list-style-type: none"> • 3% of the total sales or receipts subject to VAT per books/records or financial statements less VAT paid per VAT returns filed in the covered year 	

	<ul style="list-style-type: none"> • 10% of the total output declared per VAT returns filed for the covered year if the ratio of the VAT payments over the gross sales/receipts exceeds three percent (3%) 		
Percentage Tax	<ul style="list-style-type: none"> • 20% of the total percentage tax due per percentage tax returns filed for the covered year if the ratio of the percentage tax over the gross sales/receipts does not exceed three percent (3%) • 10% of the total percentage tax due per percentage tax returns filed for the covered year if the ratio of the percentage tax over the gross sales/receipts exceeds three percent (3%) 	<ul style="list-style-type: none"> • 3% of the total taxable sales or receipts per books/records or financial statements less the amount of tax due per percentage tax returns filed in the covered year 	
Excise Tax	<ul style="list-style-type: none"> • 3% of total excise tax due for the covered year 		
Documentary Stamp Tax (DST)	<ul style="list-style-type: none"> • 20% of the total tax due during the year 		
Withholding Tax	<ul style="list-style-type: none"> • 20% of the total withholding tax due 		

Example 1. - X Company's final income tax return filed for the taxable year 1999 show the following:

1999

Taxable Income

P5,000,000

Sales for the Year

P60,000,000

Gross Income	P18,000,000
Minimum corporate income tax due	P360,000
Income tax due/Basic Tax (33%) ¹	P1,650,000
Less: Creditable amounts:	
1. Quarterly income taxes	P 150,000
2. Creditable withholding taxes	<u>150,000</u>
Balance Paid per Return	<u>P1,350,000</u>
Tax Due per Return	P1,650,000
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X Company believes that it may not have paid its correct income tax liability for the year 1999 which, in its computation, amounts to an additional tax payment of P100,000; hence, it would like to avail of the herein Voluntary Assessment Program.

Based on the information provided above, the income tax for year 1999 payable under VAP shall be computed as follows:

(1) 1999 Basic Income tax under VAP (P1,650,000 x 10%)	P 165,000
Computation of Ratio of Tax Due over Sales (P1,650,000/P60,000,000) = 2.75%	
(2) 2% of the 1999 Sales (P60,000,000 x 2%)	P1,200,000
Less : Income Taxes Already Paid in 1999 Balance for VAP Payment	<u>(1,650,000)</u> <u>P - 0 -</u>
(3) Minimum VAP payment requirement for corporations	P 50,000
(4) Actual additional tax due per taxpayers' computation	P 100,000
VAP AMOUNT (the highest of the amounts computed) which is Item No. (1)	P 165,000
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As shown in the above computation, "X Company," shall pay a VAP amount equal to P165,000 which is the highest amount computed based on the following conditions:

(1) 10% of the basic tax per its 1999 final adjustment income tax return originally filed or P165,000 because the ratio of the tax due against the gross sales for the said year is 2.75%;

¹ Corporate income tax rate for year 1998 was 34%. Beginning 1999, at 33%. Beginning year 2000 and thereafter, at 32%.

(2) 2% of the Total Sales for 1999 less income tax per return in 1999. In this particular example, the income tax payments of P1,650,000 in 1999 exceeded 2% of the Total Sales for 1999, thus, no minimum VAP payment may be derived therefrom;

(3) The minimum VAP amount allowable of P50,000;

(4) The actual unpaid income tax of P100,000.

Example 2. -

Given-

- a. Year 1999 income tax return filed where normal income tax due is P180,000 and MCIT is P200,000
- b. Sales for 1999 is equal to P25,000,000
- c. Actual unpaid income tax as determined by the taxpayer is P150,000

20% of 1999 income tax due per return filed (P200,000 x 20%) Ratio of Tax due over Sales (P200,000 / P25,000,000) = 0.8%	P 40,000
2% of 1999 sales where sales per books/ audited Financial Statements is P25,000,000 (P25,000,000 x 2%) equals P50,000 less tax due per return filed for the covered year of P200,000	P 300,000
Minimum VAP amount for corporation	P 50,000
Actual Unpaid Income tax	P 150,000

The taxpayer wants to avail of the VAP in respect of his income tax return filed for the year 1999. In order to qualify for the privileges under this Order, such taxpayer should pay a VAP amount of P300,000 which is the highest amount among the computed figures.

Example 3. - “ABC Insurance Corporation” has the following information with regard to its documentary stamp liabilities for taxable year 1999:

<u>1999</u>	
Documentary Stamp Taxes (DST) Due	<u>P17,000,000</u>
DST Purchased	<u>P 8,000,000</u>
DST Payable (per books and per Insurance Commission Annual Statement)	<u>P9,000,000</u>

In the above illustration, before “ABC Insurance Corporation” can avail of the privileges of the VAP provided in these Regulations, it should first complete the

payment of the DST due in the amount of P17,000,000 by paying P9,000,000. In case it avails of the VAP for the taxable year 1999, the VAP to be paid shall be P3,400,000, computed as follows:

DST due applying 1999 figures (P17,000,000 x 20%)	P 3,400,000
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3.2 In case no return was filed in the covered year. – If the taxpayer under the law was required to file a tax return and pay the tax but did not actually file and pay the same, VAP availment shall consist of paying the basic tax due on such unfiled return and the additional VAP amount computed in accordance with the conditions set forth in Subsection 3.1 of these Regulations by using the VAP payment form to be prescribed for the purpose. For computation purposes, the taxpayer shall compute the VAP payment as if the taxpayer had filed a return for the covered year. In no case, however, shall the additional VAP payment be allowed unless the tax due for the unfiled and unpaid return has been paid. Nonetheless, taxpayer is still required to accomplish the required tax return and manually file (meaning not passing through the banks) the same with the concerned BIR office together with the validated VAP application and payment form filed with the appropriate BIR collection agent [Accredited Agent Bank (AAB) or Revenue Collection Officer (RCO)/Deputized Municipal Treasurer (DMT), in the absence of AAB].

3.3 VAP availment for one-time transactions such as estate tax, donor's tax, or final capital gains tax, etc.. -

3.3.1 In case returns have been previously filed. - A taxpayer who has previously filed tax return/s (i.e., estate and/or donor's tax or final capital gains tax or expanded withholding tax and documentary stamp tax on the sale, exchange or disposition of real property or shares of stock not traded in the stock exchange) but feels that he has erroneously paid the amount of tax due may, nevertheless, avail of the VAP by filing his VAP application using the prescribed BIR Form and pay the corresponding VAP amount: Provided, however, that the VAP amount to be paid shall at least be equal to twenty percent (20%) of the basic tax computed based on the tax return originally filed, or the actual unpaid tax due, whichever is higher.

3.3.2. If no return has been filed and no payment has been made. - If no return has been filed and no payment was made, the VAP may be availed of by paying 120% of the basic tax due computed based on the rates applicable and in accordance with the statutes in force at the time the taxable transaction or event occurred using the prescribed BIR Form. Nonetheless, the applicant-taxpayer shall manually file (meaning not passing through the banks) the required return/s with the concerned BIR office. Provided, however, that in the case of transfers of real property and shares of stocks, the prescribed valuation rules shall be applied; Provided, further, that deductions claimed in the estate tax or donor's tax or capital gains tax return for

shares of stock filed for the purpose shall be fully substantiated and supported, with full compliance of the requirements set forth in Revenue Memorandum Order No. 53-98.

3.3.3. Issuance of the Certificate Authorizing Registration or the Tax Clearance Certificate. – The Tax Clearance Certificate or the Certificate Authorizing Registration shall be issued in accordance with the procedures prescribed by the Bureau of Internal Revenue after the verification of the taxpayer's compliance of the valuation rules as well as evaluation of the documents submitted to substantiate the assets reported and the deductions claimed.

3.4. If Letter of Authority (LA), Tax Verification Notice (TVN) or Mission Order (MO) had already been issued. –If a Letter of Authority (LA), Tax Verification Notice (TVN) or Mission Order (MO) had already been issued by the BIR for the investigation of the VAP Applicant-taxpayer's internal revenue tax liability for the taxable period covered by his VAP availment, but such investigation has not yet been terminated and no Preliminary Assessment Notice (PAN) or Final Assessment Notice (FAN) has yet been issued, the taxpayer can still avail of the program as if no such LA or TVN or MO was issued.

3.5. Treatment of the VAP payment. – The VAP payment cannot be used as tax credits in the year of payment as well as in the returns for subsequent year/s, nor as a deduction for internal revenue tax purposes. Nonetheless, if despite VAP availment tax audit is conducted on the covered year under the circumstances allowed by this Regulations, the VAP payment shall be credited against the deficiency tax after audit.

It is to be noted, however, that VAP availment is not an admission on the part of the taxpayer of erroneous payment of the tax as well as failure to file returns and pay the required tax.

SEC. 4. PROCEDURES FOR VAP AVAILMENT. –The Commissioner of Internal Revenue is hereby authorized and instructed to issue the necessary revenue memorandum order, or any appropriate internal revenue issuance, enumerating the documents to be submitted to the appropriate BIR office for purposes of VAP, as well as prescribing the procedures for the availment and payment thereof and the processing of VAP forms: Provided, however, that for VAP availment involving taxpayers who failed to file returns for the covered year, the corresponding Certificate of Qualification shall, upon full compliance with the requirements set forth in Sec. 5 hereof, be approved by the National Evaluation Board (NEB) composed of the Commissioner and the four (4) Deputy Commissioners. Provided, further, that all the decisions of the National Evaluation Board must have the concurrence of the Commissioner of Internal Revenue.

SEC. 5. ISSUANCE OF CERTIFICATE OF QUALIFICATION. - Upon verification of the correctness of the taxpayer's availment of the privilege of last priority in the audit and investigation, he shall be issued with a Certificate of Qualification (Annex "A" hereof) for the privileges herein granted.

Upon filing of the application and submission of all the necessary documentary requirements, the concerned BIR office should stamp on the VAP form the phrase "COMPLETE AS TO DOCUMENTARY REQUIREMENTS", with mention of the names of the person who received, evaluated and approved the documents submitted. Otherwise, the concerned internal revenue officer should notify the taxpayer in writing within fifteen (15) days from receipt of the application of any additional requirements that should be submitted/complied with. The internal revenue officer receiving the additional requirements should indicate his/her name and the date such additional requirements are received. Upon receipt of the additional requirements and verification that all documentary requirements have been received, such internal revenue officer shall stamp the application with the above-mentioned phrase.

If no Certificate of Qualification is issued within thirty (30) days after the taxpayer has complied with all the requirements, the said Certificate is deemed approved; thus, the Certificate of Qualification should be issued as a matter of course.

The taxpayer, on the other hand, should submit all the documentary requirements to the appropriate BIR office within fifteen (15) days after receipt of such notice or thirty (30) days after filing of the VAP form, whichever comes earlier.

SEC. 6. DEADLINE FOR AVAILMENT. - This Program is valid only until September 30, 2001.

SEC. 7. EFFECTIVITY CLAUSE. - These Regulations shall take effect fifteen days (15) days after publication in any newspaper of general circulation.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

(Original Signed)
RENÉ G. BAÑEZ
Commissioner of Internal Revenue

Annex “A”

Republika ng Pilipinas
Kagawaran ng Pananalapi
Kawanihan ng Rentas Internas

CQ No. 0000000

Certificate of Qualification
for the privilege of last priority in audit

This is to certify that

_____ with Tax Identification Number _____
and business address at _____

has availed of the provisions under ***Revenue Regulations No.*** _____,
and is entitled to the privilege of the last priority
in the audit and investigation of its:

_____ **Tax (es)**

For the period _____ ONLY

Issued this _____ day of _____, 2001

RENÉ G. BAÑEZ
Commissioner of Internal Revenue
By: _____

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