

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

August 21, 2007

REVENUE MEMORANDUM CIRCULAR NO. 55-2007

SUBJECT: Publishing the Full Text of Department Order No. 29-07 Dated August 15, 2007, "Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9480," Otherwise Known as "Tax Amnesty Act of 2007"

TO : All Internal Revenue Officials, Employees and Others Concerned

For the information and guidance of all internal revenue officers, employees and others concerned, quoted hereunder is the full text of Department Order No. 29-07 dated August 15, 2007 issued by the Secretary of Finance to implement the provision of Republic Act No. 9480, "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"

**"DEPARTMENT ORDER NO. 29-07
August 15, 2007**

**RULES AND REGULATIONS
TO IMPLEMENT REPUBLIC ACT NO. 9480**

Pursuant to Section 15 of Republic Act No. 9480, "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," the following rules and regulations are hereby promulgated to implement the provisions of said Act.

RULE I

TITLE, PURPOSE AND CONSTRUCTION

SECTION 1. *Title and Purpose.* – These rules and regulations, to be known and cited as the "Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9480," otherwise known as "Tax Amnesty Act

of 2007,” are hereby promulgated to govern the availment by qualified persons and/or entities of the tax amnesty granted under RA 9480, covering all unpaid internal revenue taxes for the taxable year 2005 and prior years.

SEC. 2. *Construction.* – These Rules shall be construed and applied in accordance with and in furtherance of the policies and objectives of RA 9480. In case of conflict or ambiguity, which may arise in the implementation of these Rules, the Department of Finance (DOF), in coordination with the Bureau of Internal Revenue (BIR), shall issue the necessary clarification.

RULE II

COVERAGE

SEC. 3. *Taxes Covered.* – The tax amnesty shall cover all national internal revenue taxes imposed by the National Government for the taxable year 2005 and prior years, with or without assessments duly issued therefor, that have remained unpaid as of December 31, 2005.

SEC. 4. *Who May Avail of Tax Amnesty.* – The following may avail of the tax amnesty under RA 9480:

1. Individuals, whether resident or nonresident citizens, or resident or nonresident aliens;
2. Estates and trusts;
3. Corporations;
4. Cooperatives and tax exempt entities that have become taxable as of December 31, 2005; and
5. Other juridical entities including partnerships.

For this purpose, an individual taxpayer in his/her own capacity shall be treated as a different taxpayer when he acts as administrator/executor of the estate of a deceased taxpayer. The pertinent provisions of Sec. 236 of the Tax Code on the registration of the estate of the decedent by the administrator or executor and the issuance of new TIN shall be complied with. Therefore, an individual taxpayer, seeking to avail of the tax amnesty and who at the same time is an executor or administrator of the estate of a deceased taxpayer who would also like to avail of the tax amnesty, shall file two (2) separate amnesty tax returns, one for himself as a taxpayer and the other in his capacity as executor or

administrator of the estate of the decedent with respect to the revenue and other income earned or received by the estate.

SEC. 5. *Exceptions.* – The tax amnesty shall not extend to the following persons or cases existing as of the effectivity of RA 9480:

1. Withholding agents with respect to their withholding tax liabilities;
2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
3. Those with pending cases involving unexplained or unlawfully acquired wealth, revenue or income under the Anti-Graft and Corrupt Practices Act;
4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;
5. Those with pending criminal cases filed in court or in the Department of Justice for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended.
6. Those with pending criminal cases filed in court for felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
7. Tax cases subject of final and executory judgment by the courts.

RULE III

AVAILMENT AND PAYMENT OF AMNESTY

SEC. 6. *Method of Availment of Tax Amnesty.* –

1. ***Forms/Documents to be filed.*** – To avail of the general tax amnesty, concerned taxpayers shall file the following documents/requirements:
 - a. Notice of Availment in such form as may be prescribed by the BIR.

- b. Statements of Assets, Liabilities and Networth (SALN) as of December 31, 2005 in such form, as may be prescribed by the BIR.
 - c. Tax Amnesty Return in such form as may be prescribed by the BIR.
2. ***Place of Filing of Amnesty Tax Return.*** – The Tax Amnesty Return, together with the other documents stated in Sec. 6 (1) hereof, shall be filed as follows:
- a. Residents shall file with the Revenue District Officer (RDO)/Large Taxpayer District Office of the BIR which has jurisdiction over the legal residence or principal place of business of the taxpayer, as the case may be.
 - b. Non-residents shall file with the office of the Commissioner of the BIR, or with any RDO.
 - c. At the option of the taxpayer, the RDO may assist the taxpayer in accomplishing the forms and computing the taxable base and the amnesty tax payable, but may not look into, question or examine the veracity of the entries contained in the Tax Amnesty Return, Statement of Assets, Liabilities and Networth, or such other documents submitted by the taxpayer.
3. ***Payment of Amnesty Tax and Full Compliance.*** – Upon filing of the Tax Amnesty Return in accordance with Sec. 6(2) hereof, the taxpayer shall pay the amnesty tax to the authorized agent bank or in the absence thereof, the Collection Agent or duly authorized Treasurer of the city or municipality in which such person has his legal residence or principal place of business.

The RDO shall issue sufficient Acceptance of Payment Forms, as may be prescribed by the BIR for the use of – or to be accomplished by – the bank, the collection agent or the Treasurer, showing the acceptance of the amnesty tax payment. In case of the authorized agent bank, the branch manager or the assistant branch manager shall sign the acceptance of payment form.

The Acceptance of Payment Form, the Notice of Availment, the SALN, and the Tax Amnesty Return shall be

submitted to the RDO, which shall be received only after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of RA 9480.

4. ***Time for Filing and Payment of Amnesty Tax.*** – The filing of the Tax Amnesty Return, together with the SALN, and the payment of the amnesty tax shall be made within six (6) months from the effectivity of these Rules.

SEC. 7. Tax Amnesty Rates. – In order to enjoy the benefits of the tax amnesty program, the qualified taxpayers are required to pay an amnesty tax equivalent to five percent (5%) of their total declared networth as of December 31, 2005, as declared in the SALN as of the said period, or resulting increase in networth by amending such previously filed statements for purposes of this tax amnesty, thereby including still undeclared assets and/or liabilities, as the case may be, as of December 31, 2005, or the absolute minimum amnesty payment, whichever is higher, in accordance with the following schedule:

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|---|--|
| 1. Individuals (whether resident or nonresident citizens, including resident or nonresident aliens), Estates and Trusts | 5% or P50,000, whichever is higher |
| 2. Corporations | |
| (a) With subscribed capital of above P50 Million | 5% or P500,000, whichever is higher |
| (b) With subscribed capital of above P20 Million up to P50 Million | 5% or P250,000, whichever is higher |
| (c) With subscribed capital of P5 Million to P20 Million | 5% or P100,000, whichever is higher |
| (d) With subscribed capital of below P5 Million | 5% or P25,000, whichever is higher |
| 3. Other juridical entities, including partnerships, but not limited to, cooperatives and foundations, that have become taxable as of December 31, 2005 | 5% or P50,000, whichever is higher |
| 4. Taxpayers who filed their balance sheet/SALN, together with their income tax returns for 2005, and who desire to | 5% based on the resulting increase in networth or the minimum absolute |

avail of the tax amnesty
under this Act by amending such
previously filed statements
thereby including still undeclared
assets and/or liabilities

amounts of amnesty
tax prescribed above,
whichever is higher

RULE IV

STATEMENT OF ASSETS, LIABILITIES AND NETWORTH

SEC. 8. *Contents of the SALN.* – The SALN shall contain a true and complete declaration of assets liabilities and networth of the taxpayer as of December 31, 2005 as follows:

1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business:
 - a. Real properties shall be accompanied by a description of their classification, exact location, and valued at acquisition cost, if acquired by purchase, or the zonal valuation or fair market value, whichever is higher, if acquired through inheritance or donation;
 - b. Personal properties other than money, shall be accompanied by a specific description of the kind and number of assets (i.e. automobiles, shares of stock, etc.) or other investments, indicating the acquisition cost less depreciation or amortization, in proper cases, if acquired by purchase, or the fair market price or value at the time of receipt, if acquired through inheritance or donation;
 - c. Assets denominated in foreign currency shall be converted into the corresponding Philippine currency equivalent, at the rate of exchange prevailing as of December 31, 2005; and
 - d. Cash on hand and in bank in peso as of December 31, 2005, as well as Cash on Hand and in Bank in foreign currency, converted to peso as of December 31, 2005.
2. All existing liabilities which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade or business, disclosing or indicating clearly the name and address of the creditor and the amount of the corresponding liability.

3. The total networth of the taxpayer, which shall be the difference between the total assets and total liabilities.

SEC. 9. *Presumption of Correctness of the SALN.* – The corresponding SALN as of December 31, 2005 filed by a taxpayer desiring to avail of the tax amnesty shall be presumed true and correct, except in the following cases:

1. Where the amount of the declared networth is understated to the extent of thirty percent (30%) or more as may be established in proceedings initiated within one (1)-year following the date of filing of the Tax Amnesty Return and the SALN, by, or at the instance of parties other than the BIR or its agents, as when any person, entity or government agency informs the BIR, with sufficient evidence, that the amount of the declared networth is understated to the extent of thirty percent (30%) or more.
2. When findings of or admission in congressional hearings or proceedings in administrative agencies of the government, and in courts, prove that there is at least thirty percent (30%) under-declaration.

RULE V

IMMUNITIES AND PRIVILEGES

SEC. 10. *Immunities and Privileges.* – Taxpayers who have fully complied with the conditions under RA 9480 and these rules shall be entitled to the following immunities and privileges:

1. The taxpayer shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.
2. The taxpayer's Tax Amnesty Return and the SALN as of December 31, 2005 shall not be admissible as evidence in all proceedings that pertain to taxable year 2005 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent and, except for the purpose of ascertaining the networth beginning January 1, 2006, the same

shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in cases brought against him.

3. The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined by the BIR. However, the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws.

The above-stated immunities and privileges shall not apply where the person failed to file a SALN and the Tax Amnesty Return, or where the amount of networth as of December 31, 2005 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 4 of RA 9480 and Section 9, Rule IV hereof.

RULE VI

OFFENSES AND PENALTIES

SEC. 11 . Penalties. – For violations of RA 9480, the following rules on sanctions and penalties shall apply:

1. Any person who, having filed a Tax Amnesty Return or SALN under this Act, willfully understates his networth to the extent of thirty percent (30%) or more shall, upon conviction, be subject to the penalties of perjury under the Revised Penal Code.
2. The willful failure to declare any property in the SALN and/or in the Tax Amnesty Return shall be deemed a *prima facie* evidence of fraud and shall constitute a ground upon which attachment of such property may be issued in favor of the BIR to answer for the satisfaction of any judgment that may be acquired against the declarant.
3. In addition to the penalties provided in paragraphs (1) and (2) above, immediate tax fraud investigation shall be conducted to collect all taxes due, including increments, and to criminally prosecute those found to have willfully evaded lawful taxes due.

4. In the case of associations, partnerships, or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge and employees responsible for the violation.
5. If the offender is an officer or employee of the BIR or any government entity, he/she shall likewise suffer an additional penalty of perpetual disqualification to hold public office, to vote and to participate in any public election.

SEC. 12. *Unlawful Divulgence.* – Any person who makes an unlawful divulgence of the Tax Amnesty Return or the SALN shall be penalized by a fine of not less than Fifty Thousand Pesos (P50,000.00) and imprisonment of not less than six years but not more than ten (10) years. However, the Commissioner of Internal Revenue may disclose the content of the Tax Amnesty Return and the SALN upon request of the Congress and in aid of legislation pursuant to and strictly in accordance with Section 20 (A) or Section 290 of the Tax Code.

RULE VII

FINAL PROVISIONS

SEC. 13. *Information Management Program.* – For purposes of enhancing revenue administration, revenue collection and policy formulation, the DOF in coordination with the BIR, Land Registration Authority, Department of Trade and Industry, Securities and Exchange Commission, Land Transportation Office, and other concerned agencies shall institute an Information Management Program (IMP) for the effective use of information declared or obtainable from the Tax Amnesty Returns and the SALNs required to be filed under RA 9480 and these Rules. To ensure the efficiency and accuracy of the IMP, all the above-named agencies shall share and submit all the necessary data and information that shall be requested by the DOF for the purpose, as soon as they are available.

The amount equivalent to Four Hundred Million Pesos (P400,000,000.00) from the collections of the tax amnesty program shall accrue to the DOF and shall be used exclusively for purposes of instituting a Management Information System as mandated under Section 12 of RA 9480.

SEC. 14. *Publication of List of Taxpayers and Filers.* – As provided under Section 14 of RA 9480, the provisions of Sections 71 and 270 of the Tax Code and Section 26 of Republic Act No. 6388 to the contrary notwithstanding, the Commissioner of Internal Revenue shall, on

or before May 31 following close of each calendar year, prepare a list containing the names of all taxpayers, their gross income and amount of income taxes paid for the immediately preceding taxable year, and allow the publication of the same in at least two newspapers of general circulation or the Bureau of Internal Revenue website.

SEC. 15. *Moratorium on the Grant of Tax Amnesty.* – In order to encourage and improve tax compliance by taxpayers, it is hereby declared as a matter of policy that the grant of tax amnesty, in whatever manner and form, shall not henceforth be allowed, provided that this moratorium shall likewise apply to any administrative tax amnesty by the BIR. It is understood, however, that any compromise or abatement under Sec. 204 of the National Internal Revenue Code of 1997, as amended, shall not be construed as an administrative amnesty.

SEC. 16. *Separability Clause.* – If for any reason, any section or provision of these Rules be declared unconstitutional or invalid, such parts not affected shall remain in full force and effect.

SEC. 17. *Repealing Clause.* – All orders, circulars, memoranda, and other issuances, or parts thereof, which are inconsistent with these Rules, are hereby repealed or modified accordingly.

SEC. 18. *Effectivity.* – These Rules shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

DONE in the city of Manila, Philippines, this 15th day of August 2007.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance”

All internal revenue officials and others concerned are hereby enjoined to be guided accordingly and to give this Circular as wide a publicity as possible.

(Original Signed)
LILIAN B. HEFTI
OIC-Commissioner of Internal Revenue