

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

June 27, 2006

REVENUE REGULATIONS NO. 9-2006

Subject : Amending Further Certain Provisions of Revenue Regulations (RR) No. 6-2005, as Amended, Implementing the Provisions of Executive Order No. (EO) No. 399, as Amended by EO No. 422, Otherwise Known as the “No Audit Program (NAP)”.

To : All Internal Revenue Officials, Employees and Others Concerned.

SECTION 1. SCOPE. Pursuant to Section 244 of the National Internal Revenue Code of 1997 in relation to EO 399, as amended by EO 422, these Regulations are hereby promulgated to further amend certain provisions of RR No. 6-2005, as amended.

SECTION 2. DEFINITION OF TERMS. Section 2(d) of RR No. 6-2005 is hereby amended to read as follows:

“SECTION 2. DEFINITIONS

xxx

xxx

xxx.

(d) ***Taxpayer*** – *refers to any person whether individual or corporation earning business income.*”

SECTION 3. CRITERIA FOR QUALIFICATION. Section 5 of RR No. 6-2005, as amended, is hereby further amended to read as follows:

“SECTION 5. CRITERIA FOR QUALIFICATION UNDER THE PROGRAM

For a taxpayer to qualify for the NAP, he must satisfy all of the following:

a. Income tax payment for the Current Taxable Year must exceed the income tax payment for the Base Year by at least 20%;

b. Ratio of income tax payment to gross sales/receipts for the Current Taxable Year must be at least equal to that of the Base Year.

For taxpayers earning mixed income (business income and employment income), the computation of the 20% increase in the income tax payment and the

ratio of income tax payment to gross sales must be based on the total tax paid and total income by the taxpayer from his business and employment. Provided, however, that increase/decrease in the compensation and its corresponding effect on the tax due for the current taxable year shall be excluded for purposes of computing the compliance with the required increase in income tax payment and the ratio of tax payment to gross sales/receipts.

Taxpayers who paid or are paying the Minimum Corporate Income Tax (MCIT) can still avail of the NAP provided that the required increase in the income tax payment and the ratio of tax payment to gross sales/receipts shall be based on the MCIT payment in the base year and the MCIT due in the current year. Further, excess MCIT shall not be credited from the succeeding year's tax due, even if the normal income tax becomes higher than the MCIT. Deferred Charges-MCIT for the current year must be closed to retained earnings account.

Taxpayers enjoying the benefit of the preferential tax rates (not subject to the Normal Income Tax Rate) can still avail of the program provided that the required increase in the income tax payment and the ratio of income tax payment to gross sales/receipts as stated in letters (a) and (b) hereof are complied and shall be based on the tax due computed applying the preferential tax rate for the base year and the current year. The same rule applies, even if the taxpayer's current year is no longer entitled to the application of the preferential tax rate.

c. ratio of net value added tax (VAT) or business tax actually paid to gross sales/receipts for the Current Taxable Year must be at least equal to that of the Base Year, provided, however, that in no case shall it be less than three percent (3%) for those subject to percentage tax, or thirty percent (30%) of the value-added tax rate provided by law for any given period for those subject to value-added tax, or the industry benchmark as may be determined from time to time by the Commissioner of Internal Revenue (Commissioner).

VAT zero-rated transactions and VAT exempt transactions, not subject to percentage tax, shall not be considered for purposes of determining compliance with the required VAT or percentage tax ratio. Provided, however, that the gross sales/receipts from the aforesaid transactions are included for purposes of qualifying with the requirements of letters (a) and (b) of this section.

Taxpayers having purely VAT zero-rated transactions or VAT exempt transactions, not subject to percentage tax, shall not be required to comply with letter (c) and shall be deemed qualified for said exemption provided that the requirements of letters (a) and (b) of this section are complied with. Provided, further, that photocopies of the required documents included in the NAP Participation Form (April 2006 Version) shall be presented for validation of their business tax type/s.

For purposes of determining the tax payments for the Current Taxable Year, only taxes actually paid in cash as shown in the Annual Income Tax Return, Quarterly Income Tax Return, Quarterly Value-added Tax Return, Monthly VAT Declaration and Quarterly/ Monthly Percentage Tax Return shall be considered. For this purpose, creditable withholding taxes for the tax year concerned, which are properly supported by a Certificate of Creditable Tax

Withheld at Source (BIR Form No. 2307)/Certificate of Compensation Payment/Tax Withheld (BIR Form No. 2316), shall be considered as cash payment. On the other hand, TCCs/TDMs, and tax credit carried over from prior years are considered non-cash items and shall be excluded from determining the tax payments for the Current Taxable Year.

Xxx

xxx

xxx.

Provided, further, that the growth rate and ratio provided herein shall be adjusted to reflect the effect of the increase/decrease of the tax rate resulting from legislative measures. These growth rate and ratio shall be determined by the Commissioner for every NAP participation year which shall be released through a Revenue Memorandum Circular to be issued before the deadline for filing of NAP Participation Form on a yearly basis.

Xxx

xxx

xxx.”

SECTION 4. TAXPAYERS NOT QUALIFIED FOR THE PROGRAM.

Section 6 of RR 6-2005 is hereby amended to read as follows:

“SECTION 6. TAXPAYERS NOT QUALIFIED FOR THE PROGRAM

Taxpayers who are reporting net loss or have a Net Operating Loss Carry-over without MCIT due shall be disqualified from participating in the NAP. This includes taxpayers having net income but having no tax payable due to their deduction of personal and additional exemptions.

SECTION 5. DEADLINE. Section 9 of RR No. 6-2005, as amended, is hereby further amended to read as follows:

“SECTION 9. DEADLINE

A taxpayer must file a duly accomplished NAP Participation Form, together with the required attachmets, not later than thirty (30) days from the statutory deadline for the filing of Annual Income Tax Return for the year subject of the Participation, or in the case of taxpayers whose statutory deadline for the filing of Annual Income Tax Returns occurred earlier than the date of the effectivity of these Regulations, their application must be filed within thirty (30) days from the effectivity thereof.

However, for taxpayers whose taxable year ends December 31, 2005 and fiscal year ending on January, February or March, 2006, the NAP Participation Form must be filed together with the required attachments, on or before July 31, 2006.

Xxx

xxx

xxx

Taxpayers who failed to avail and qualify for 2004 NAP availment can still avail of the Program under these regulations by complying with the requirements herein provided; Provided, however, that no Final Assessment Notice pursuant to a Letter of Authority, Tax Verification Notice or Letter Notice has yet been issued for the taxable year 2004. Additional payments, if any, must be made using BIR Form 06015-101 and NAP Participation Form must be filed not later than July 31, 2006.”

SECTION 6. ISSUANCE OF CERTIFICATE OF EXEMPTION FROM AUDIT/INVESTIGATION OR NOTICE OF DISQUALIFICATION. Section 10 of RR No. 6-2005 is hereby amended to read as follows:

“SECTION 10. ISSUANCE OF CERTIFICATE OF EXEMPTION FROM AUDIT/INVESTIGATION OR NOTICE OF DISQUALIFICATION.

The application and the required attachments shall be reviewed by the NAP Review Committee composed of the following:

A. Regional Level

Head : Assistant Regional Director

Members: 1. Revenue District Officer where taxpayer is registered
2. Chief, Assessment Division
3. Chief, Legal Division

B. Large Taxpayers

Head : HREA (Regular/Excise)

Members: 1. Chief, LTAID I / LTAID II / LTDO where taxpayer is registered
2. Chief, LTCED
3. Head, Review Team

The NAP Review Committee shall recommend the issuance of a Certificate of Exemption from Audit/Investigation or Notice of Disqualification which shall be signed by the Regional Director, for regional office cases, or the Assistant Commissioner, Large Taxpayers Service, for large taxpayers' cases.

Any unpaid amount found after review by the NAP Review Committee shall be paid within thirty (30) days from receipt by the taxpayer of the written notification from the RDO or Chief of concerned Large Taxpayers Office; otherwise, the taxpayer's availment shall be invalidated.”

SECTION 7. APPEAL. Taxpayers who received a Notice of Disqualification may file an appeal to the NAP Committee- National Office Level within 30 (thirty) days from receipt thereof. The composition, functions, duties and responsibilities of NAP Committee- National Office Level shall be provided through a Revenue Special Order to be issued by the Commissioner for that purpose.

SECTION 8. EFFECTIVITY. These Regulations shall take effect immediately after publication in any newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
JOSE MARIO C. BUNAG
Commissioner of Internal Revenue