

July 31, 2001

REVENUE REGULATIONS NO. 7 - 2001

SUBJECT : Further Implementing Sections 7(c), 204(A) and 290 of the Tax Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities and Thereby Amending Revenue Regulations No. 6-2000.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE AND OBJECTIVES. – Pursuant to Section 244 of the Tax Code of 1997, these Regulations are hereby promulgated for the purpose of further implementing Sections 7(c), 204(A) and 290 of the same Code, thereby amending Revenue Regulations (RR) No. 6-2000 and giving an authority to the Commissioner of Internal Revenue to compromise the payment of internal revenue tax liabilities of certain taxpayers with outstanding receivable accounts and disputed assessments with the Bureau.

SEC. 2. CASES WHICH MAY BE COMPROMISED. - The following cases may, upon taxpayer's compliance with the basis set forth under Section 3 of these Regulations, be the subject matter of compromise settlement, viz:

1. Delinquent accounts;
2. Cases under administrative protest pending in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Collection Service, Enforcement Service and other offices in the National Office;
3. Civil tax cases being disputed before the courts, e.g., MTC, RTC, CTA, CA, SC;
4. Collection cases filed in courts;
5. Criminal violations, other than those already filed in court or those involving criminal tax fraud; and
6. Cases covered by pre-assessment notices but taxpayer is not agreeable to the findings of the audit office as confirmed by the review office.

EXCEPTIONS:

1. Withholding tax cases;
2. Criminal tax fraud cases;
3. Criminal violations already filed in court;
4. Delinquent accounts with duly approved schedule of installment payments;
5. Cases where final reports of reinvestigation or reconsideration have been issued resulting to reduction in the original assessment and the taxpayer is agreeable to such decision. On the other hand, other protested cases shall be handled by the Regional Evaluation Board (REB) or the National Evaluation Board (NEB) on a case to case basis; and
6. Cases which become final and executory after final judgment of a court.

SEC. 3. BASIS FOR ACCEPTANCE OF COMPROMISE SETTLEMENT. - The Commissioner may compromise the payment of any internal revenue tax on the following grounds:

1. **Doubtful validity of the assessment.** - The offer to compromise a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:
 - (a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, "*jeopardy assessment*" shall refer to a tax assessment which was assessed without the benefit of complete or partial audit by an authorized revenue officer, who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or
 - (b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason to believe that it is lacking in legal and/or factual basis; or
 - (c) The taxpayer failed to file an administrative protest on account of the alleged failure to receive notice of assessment or preliminary assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

-
-
-
-
-
-
-
- (d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or
 - (e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or
 - (f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the Tax Code of 1997; or
 - (g) Assessments made based on the “Best Evidence Obtainable Rule” and there is reason to believe that the same can be disputed by sufficient and competent evidence.
2. **Financial incapacity.** - The offer to compromise based on financial incapacity may be accepted upon showing that:
 - (a) The corporation ceased operation or is already dissolved; or
 - (b) The taxpayer is suffering from surplus or earnings deficit resulting to impairment in the original capital by at least 50%; or
 - (c) The taxpayer is suffering from a networth deficit computed by deducting total liabilities (net of deferred credits) from total assets (net of prepaid expenses, deferred charges, pre-operating expenses, as well as appraisal increases in fixed assets), taken from the latest audited financial statements; or
 - (d) The taxpayer is a compensation income earner with no other source of income and the family’s gross monthly compensation income does not exceed the levels of compensation income provided for under Sec. 4.1.1 of these Regulations, and it appears that the taxpayer possesses no other leviable/distainable assets, other than his family home; or
 - (e) The taxpayer has been granted by the Securities and Exchange Commission (SEC) or by any competent tribunal a moratorium or suspension of payments to creditors, or otherwise declared bankrupt or insolvent.

The Commissioner shall not consider any offer for compromise settlement by reason of financial incapacity unless and until the taxpayer waives in writing his privilege of the secrecy of bank deposits under Republic Act No. 1405 or under other general or special laws, and such waiver shall constitute as the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

For purposes of these Regulations, the term "assessment" includes the preliminary assessment notice (PAN) issued as of June 30, 2001 by the appropriate "Review Office". In fine, it does not include the post reporting notice issued by the head of the investigating unit.

SEC. 4. PRESCRIBED MINIMUM PERCENTAGES OF COMPROMISE SETTLEMENT. – The compromise settlement of the internal revenue tax liabilities of taxpayers, reckoned on a per tax type assessment basis, shall be subject to the following minimum rates based on the basic assessed tax:

1. **For cases of "financial incapacity" –**
 - 1.1. If taxpayer is an individual whose only source of income is from employment and whose monthly salary, if single, is P10,500 or less, or if married, whose salary together with his spouse is P21,000 per month, or less - 10%
 - 1.2. If taxpayer is an individual without any source of income - 10%
 - 1.3. Where the taxpayer is under any of the following conditions:
 - 1.3.1. Zero networth computed in accordance with Sec. 3.2(c) hereof - 10%
 - 1.3.2. Negative networth computed in accordance with Sec. 3.2(c) hereof - 10%
 - 1.3.3. Dissolved corporations - 20%
 - 1.3.4. Already non-operating companies for a period of:
 - (a) three (3) years or more as of the date of application for compromise settlement - 10%
 - (b) Less than 3 years - 20%
 - 1.3.5. Surplus or earnings deficit resulting to impairment in the original capital by at least 50% - 20%
 - 1.3.6. With moratorium/suspension of payments; declared insolvent or bankrupt - 10%

2. **For cases of “doubtful validity”** – A minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.

The taxpayer may, nevertheless, request for a compromise rate lower than forty percent (40%): Provided, however, that he shall be required to submit his request in writing stating therein the reasons, legal and/or factual, why he should be entitled to such lower rate: Provided, further, that for applications of compromise settlement based on doubtful validity of the assessment involving an offer lower than the minimum forty percent (40%) compromise rate, the same shall be subject to the prior approval by the NEB.

The herein prescribed minimum percentages shall likewise apply in compromise settlement of assessments consisting solely of increments, i.e., surcharge, interest, etc., based on the total amount assessed.

SEC. 5. DOCUMENTARY REQUIREMENTS. –

1. If the application for compromise is premised under Sec. 4.1.1 hereof, the taxpayer-applicant shall submit with his application (a) a certification from his employer on his prevailing monthly salary, including allowances; and (b) a sworn statement that he has no other source of income other than from employment.

2. If the application is premised under Sec. 4.1.2 hereof, the taxpayer-applicant shall submit with his application a sworn statement that he derives no income from any source whatever.

3. If the application is premised under Sec. 4.1.3 hereof, a copy of the applicant's latest audited financial statements or audited Account Information Form filed with the BIR shall be submitted with the application. Nonetheless, for situation under Sec. 4.1.3.3 hereof, the “Notice of Dissolution” submitted to SEC or other similar or equivalent document should likewise be submitted. For situation under Sec. 4.1.3.6, a copy of the order granting the moratorium or suspension of payments or of bankruptcy or insolvency shall be submitted.

SEC. 6. APPROVAL OF OFFER OF COMPROMISE. - Except for offers of compromise where the approval is delegated to the REB pursuant to the succeeding paragraph, all compromise settlements within the jurisdiction of the National Office (NO) shall be approved by the NEB composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, whether favorable or otherwise, shall have the concurrence of the Commissioner.

Offers of compromise of assessments issued by the Regional Offices involving basic deficiency taxes of Five Hundred Thousand Pesos (P500,000) or less and for minor criminal violations discovered by the Regional and District Offices, shall be subject to the approval by the Regional Evaluation Board (REB), comprised of the following Officers of the Region:

Regional Director – Chairman

Members:

- Assistant Regional Director
- Chief, Legal Division
- Chief, Assessment Division
- Chief, Collection Division
- Revenue District Officer having jurisdiction over the taxpayer-applicant

Provided, however, that if the offer of compromise is less than the prescribed rates set forth in Sec. 4 hereof, the same shall always be subject to the approval of the NEB.

If the compromise offer meets the conditions for availment set forth in Sections 3, 4, and 5 of these Regulations, the case is considered provisionally closed on the day compromise amount is fully paid and the approval of the compromise offer becomes a matter of course on the part of the approving authority referred to in this Section.

SEC. 7. REPORT OF THE COMMISSIONER ON THE EXERCISE OF HIS AUTHORITY TO COMPROMISE TO THE CONGRESSIONAL OVERSIGHT COMMITTEE. – The Commissioner shall submit to the Congressional Oversight Committee through the Chairmen of the Committee on Ways and Means of both the Senate and House of Representatives, every six (6) months of each calendar year, a report on the exercise of his powers to compromise the tax liabilities of taxpayers. In this regard, the REB should submit to the Commissioner all the necessary reports and data in due time for the latter to be able to submit the required reports to the Congressional Oversight Committee.

SEC. 8. REPEALING CLAUSE. – RR No. 6-2000 and all other issuances implementing Section 204 of the Tax Code of 1997 or parts thereof which are contrary to or inconsistent with the provisions of these Regulations are hereby amended, modified or repealed accordingly.

SEC. 9. EFFECTIVITY. – The provisions of these Regulations shall take effect fifteen (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