

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

December 16, 2002

**REVENUE REGULATIONS NO. 30-2002**

**SUBJECT :** Revenue Regulations Implementing Sections 7(c), 204(A) and 290 of the National Internal Revenue Code of 1997 on Compromise Settlement of Internal Revenue Tax Liabilities Superseding Revenue Regulations Nos. 6-2000 and 7-2001.

**TO : All Internal Revenue Officers and Others Concerned.**

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**SECTION 1. SCOPE AND OBJECTIVES.** – Pursuant to Section 244 of the **National Internal Revenue Code of 1997 (Code)**, these Regulations are hereby promulgated for the purpose of implementing Sections 7(c), 204(A) and 290 of the same Code, superseding Revenue Regulations (RR) Nos. 6-2000 **and 7-2001** 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 of Internal Revenue and the Courts**.

**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 **after issuance of the Final Assessment Notice to the taxpayer which are still 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;
4. Collection cases filed in courts;
5. Criminal violations, other than those already filed in court or those involving criminal tax fraud.

**EXCEPTIONS:**

1. Withholding tax cases, **unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold;**

2. Criminal tax fraud cases **confirmed as such by the Commissioner of Internal Revenue or his duly authorized representative;**
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 **by signing the required agreement form for the purpose.** 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;
6. Cases which become final and executory after final judgment of a court, **where compromise is requested on the ground of doubtful validity of the assessment; and**
7. **Estate tax cases where compromise is requested on the ground of financial incapacity of the taxpayer.**

**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 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 National Internal Revenue 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; or
  - (h) **The assessment was issued within the prescriptive period for assessment as extended by the taxpayer’s execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic .**

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. **Provided, that tax liabilities corresponding to the Subscription Receivable or Assets distributed/distributable to the stockholders representing return of capital at the time of cessation of operation or dissolution of business shall not be considered for compromise;** or
- (b) The taxpayer, **as reflected in its latest Balance Sheet supposed to be filed with the Bureau of Internal Revenue,** is suffering from surplus or earnings deficit resulting to impairment in the original capital by at least 50%, **provided that amounts payable or due to stockholders other than business-related transactions which are properly includible in the regular “accounts payable” are by fiction of law considered as part of capital and not liability, and provided further that the taxpayer has no sufficient liquid asset to satisfy the tax liability;** or

- (c) The taxpayer is suffering from a networth deficit (**total liabilities exceed total assets**) computed by deducting total liabilities (net of deferred credits **and amounts payable to stockholders/owners reflected as liabilities, except business-related transactions**) 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, **provided that in the case of an individual taxpayer, he has no other leivable properties under the law other than his family home**; 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 leivable or distrainable assets, other than his family home; or
- (e) The taxpayer has been declared by any competent tribunal/**authority/body/government agency** as bankrupt or insolvent.

The Commissioner shall not consider any offer for compromise settlement **on the ground of financial incapacity of a taxpayer with Tax Credit Certificate(TCC), issued under the National Internal Revenue Code of 1997 or Executive Order No. 226, on hand or in transit, or with pending claim for tax refund or tax credit with the Bureau of Internal Revenue, Department of Finance One-Stop-Shop Tax Credit and Duty Drawback Center (Tax Revenue Group or Investment Incentive Group) and/or the courts, or with existing finalized agreement or prospect of future agreement with any party that resulted or could result to an increase in the equity of the taxpayer at the time of the offer for compromise or at a definite future time. Moreover, no offer of compromise shall be entertained 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.**

**Presence of circumstances that would place the taxpayer-applicant's inability to pay in serious doubt can be a ground to deny the application for compromise based on financial incapacity of the taxpayer to pay the tax.**

**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, **and it appears that the taxpayer possesses no other leviable/distrainable assets, other than his family home** - 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% - 40%
      - 1.3.6. Declared insolvent or bankrupt, - 20%
 

**unless taxpayer falls squarely under any situation as discussed above, thus resulting to the application of the appropriate rate.**
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 **declaring** bankruptcy or insolvency shall be submitted.

**In all cases of offer based on financial incapacity, Waiver of the Secrecy of Bank Deposit under R.A. 1405 and Sworn Statement saying that he has no Tax Credit Certificate(TCC) on hand or in transit or claim for tax refund or TCC under the National Internal Revenue Code of 1997 and Executive Order No. 226 pending in any office shall be submitted.**

**Moreover, additional requirements prescribed under the existing Revenue Memorandum Order (RMO) shall still be complied with unless amended and/or expanded by an amendatory RMO.**

**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 a **majority of all the members of the NEB** composed of the Commissioner and the four (4) Deputy Commissioners. All decisions of the NEB, **granting the request of the taxpayer or favorable to the taxpayer**, 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.

**The compromise offer may be paid before or after the approval of the offer of compromise by the Board (NEB or REB), at the option of the taxpayer. In case of disapproval of compromise offer previously paid, the same shall be dealt with in accordance with the prevailing procedures embodied in the Revenue Memorandum Order issued for this purpose, including amendments thereto.**

**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.** – These Regulations supersede Revenue Regulations No. 6-2000, and Revenue Regulations No. 7-2001. All other issuances 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 after fifteen (15) days following publication in any newspaper of general circulation except for cases the compromise of which have been confirmed by the Secretary of Finance in which case these Regulations shall take effect immediately upon publication.

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

Recommending Approval:

(Original Signed)  
**GUILLERMO L. PARAYNO, JR.**  
Commissioner of Internal Revenue