

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

November 22, 2002

REVENUE MEMORANDUM ORDER NO. 32-2002

SUBJECT : Amending Revenue Memorandum Order No. 23-2002 to Prescribe Additional Guidelines and Procedures in the Implementation of the Expanded Voluntary Assessment and Abatement Program Promulgated Under Revenue Regulations No. 17-2002, as Amended by Revenue Regulations No. 18-2002 Allowing for the Installment Payment of VAAP Amounts and For Other Purposes.

TO : All Internal Revenue Officers and Others Concerned.

Section 1. Objectives. – This Order is issued to amend Revenue Memorandum Order No. 23-2002 relative to the following:

- 1.1 Incorporate in the Order guidelines and procedures relative to the expanded coverage of VAAP and the installment payment promulgated pursuant to Revenue Regulations No. 17-2002;
- 1.2 Incorporate in the Order guidelines and procedures relative to the amendments introduced to Revenue Regulations No. 17-2002 (RR 17-2002) by Revenue Regulations No. 18-2002 (RR18-2002) which was published last November 18, 2002 and made effective beginning November 19, 2002 which, among others, provided for: the extension of VAAP availment to taxpayers voluntarily disclosing their sales for income tax, VAT and excise tax for the years/periods covering Year 2000 to June 2002; the minimum payments on voluntarily disclosed amounts for the taxes and taxable periods covered by the Program; the conditions for the grant of extension on installment payments; as well as the increase in the threshold amounts as a result of incorrect submission.
- 1.3 Prescribe additional documents to be required for the availment of VAAP with respect to one-time transactions and those with no previously filed returns.

Section 2. - General Policies. - Pertinent portions of Section 2 of RMO 23-2002 are hereby amended to read as follows:

“xxx xxx xxx

“2.1 Persons Covered. – Any person, natural or juridical, including estates and trusts, liable to pay any of the internal revenue taxes mentioned in Subsection 2.2 hereof for the taxable periods specified in Subsection 2.3, who due to inadvertence or otherwise, erroneously paid his/its internal revenue tax liabilities or failed to file tax returns/pay taxes including those subject to preferential tax rates pursuant to special laws (e.g., RA7227, RA 7916, EO 226, as amended).

“2.2 Taxes Covered. – VAT, income tax, excise tax, percentage tax, documentary stamp tax, improperly accumulated earnings tax, withholding tax, taxes on one-time transactions such as estate tax, donor’s tax, capital gains tax, expanded withholding tax and documentary stamp tax on the sale, exchange, disposition of real property and/or shares of stock as well as taxes paid by corporations/enterprises subject to preferential tax rates pursuant to special laws (e.g., RA 7227, RA7916, E.O. 226, as amended).

“2.3 Taxable Periods Covered. – The Program shall cover all the taxable years/periods provided for under Section 2(B) of RR 17-2002, as amended. The taxable periods to be availed of by corporations/enterprises subject to preferential tax rates pursuant to special laws shall follow the taxable period/s available for corporations subject to income tax under Section 2(B)(1) of said Regulations.

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“2.6 Forms to be Accomplished for VAAP Amounts. -

“2.6.1 Voluntary Assessment and Abatement Program - Payment Form (VAAP-PF)- xxx xxx xxx

The VAAP-PF to be used shall be BIR Form 0611 September 2002 version or BIR Form 0611 October 2002 (ENCS) (Annexes “C-1” and “C-2”).

“2.6.2 Voluntary Assessment and Abatement Program - Application Form (VAAP-AF)- xxx xxx xxx

The VAAP-AFs to be used for availment shall be as follows:

- (a) BIR Form 2111 V (Annex “D”)- for VAT ;
- (b) BIR Form 2111 IT (Annex “E”) - for income tax;
- (c) BIR Form 2111 X (Annex “F”) - for excise tax; and
- (d) BIR Form 2111 (Annex “G”) - for all other tax types covered by the Program.

In addition to the VAAP-AF for income tax, VAT, excise tax, and percentage tax, there shall be attached a computation sheet (Annex “H”) detailing how the VAAP amount payable was arrived at.

“2.6.3 Manner of Accomplishing the Forms. -

“2.6.3.1 Per tax type and taxable period basis. - xxx xxx xxx

In case the VAAP amount as computed is allowed to be paid in installments, there will be as many sets of VAAP-PF to be filled up and submitted to the AAB corresponding to the installments allowed as discussed under Subsection 3.3 hereof.

“2.8 Disposition of Current Audit Cases. -

“2.8.1 Upon payment of the VAAP amounts prescribed above, the audit case shall be suspended and the docket thereof including the VAAP-AF and VAAP-PF shall be transmitted to the Technical Working Group-Final Validation of Discrepancy (TWG-FVD) for evaluation, except for VAAP availments involving one-time transactions which shall be reviewed by the Chief, Assessment Division and approved by the Regional Director.

“2.8.2 xxx xxx xxx

“2.10 Computation of VAAP. – The computation of the VAAP amounts to be paid shall be made in accordance with Section 5 and 6 of Revenue Regulations No. 12-2002 and Section 4 of Revenue Regulations No. 17-2002, as amended by Revenue Regulations No. 18-2002. A more detailed discussion on how to arrive at the VAAP amounts is properly illustrated in Annex “A”, as amended, of this Order.

In respect to the minimum amounts prescribed for VAT (P100,000 for corporations and P50,000 for individuals) and for percentage tax (P50,000 for corporations and P10,000 for individuals) under Section 4(B)(3) and (D)(3) of RR 17-2002, as amended RR 18-2002, the minimum amounts to be taken in computing the VAAP payable covering the taxable period January to June 2002 for VAT shall only be P50,000 for corporations and P25,000 for individuals and for percentage tax, the minimum amounts shall be P25,000 for corporations and P5,000 for individuals.

In addition to the taxes covered, penalties that have accrued due to late payment of basic tax may be a subject of VAAP availment provided that the VAAP amount shall consist of the payment of interest at the rate of twenty percent (20%) per annum of the basic tax computed from the due date when the basic tax was supposed to be paid up to the time of payment thereof. An example of such instance is when an individual who is paying his income tax for the year 2001 on installment pays his 2nd installment on August 15, 2002 instead on July 15, 2002. In such case, he may avail of VAAP for the penalties that have accrued as a result of late payment of his basic tax where the VAAP amount shall be computed at the rate of 20% per annum from April 16, 2002 up to August 15, 2002. Such VAAP payment consisting of the interest payment shall be in lieu of the 25% surcharge, interest and compromise penalty that would have been imposed as a result of late payment of basic tax.

Example : The penalties due for late payment of 2nd installment of basic tax of P1,000 are as follows :

Surcharge (P1,000 x 25%)	P250.00
Interest (from 04/15 to 8/15) [P1,000 x 20% x 4/12]	66.67
Compromise penalty	<u>400.00</u>
Total penalties due	P716.67
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With the availment of VAAP, the only amount to be paid shall be P66.67 while the surcharge amount of P250.00 and compromise penalty of P400.00 shall be abated.

VAAP availments for corporations subject to preferential tax rates pursuant to special laws shall be subject to a VAAP amount equivalent to conditions provided for income tax under Section 4 of RR 17-2002 as amended by RR 18-2002.

Taxpayers who have been identified to be non-filers/stop-filers may avail of VAAP for the tax types and taxable periods/years for which they have failed to file returns by filing the appropriate VAAP-AF and paying the VAAP amounts computed in accordance with Section 4 of Revenue Regulations No. 17-2002 as amended by Revenue Regulation No. 18-2002 using the VAAP-PF, and by manually filing the tax returns which have not been filed with the RDO at the time of the submission of the VAAP-AF. The manually filed tax returns, VAAP-AF, and the VAAP-PF as submitted shall be the basis in closing non-filer/stop-filer cases of taxpayers who have availed of the Program.

Unregistered taxpayers intending to pay taxes on their undeclared income may likewise avail of VAAP by: (1) registering themselves with the RDO having jurisdiction over their principal place of business; (2) filing the appropriate VAAP-AF and paying the VAAP amounts computed in accordance with Section 4 of Revenue Regulations No. 17-2002, as amended by RR 18- 2002, using the VAAP-PF; and (3) manually filing the tax returns supposedly filed with the RDO at the time of the submission of the VAAP-AF. The manually filed returns shall be the basis for establishing a database in the ITS in respect to such taxpayers.

(Note: Tax deduction and credit claimed as applicable to sales discrepancy per LN and/or on sales voluntarily disclosed shall be subject to the submission of soft copy of schedule of purchases of goods and services following the format provided for under Revenue Regulations No. 13-97 as amended by Revenue Regulations No. 7-99. Such summary list of purchases shall be submitted to the RDO at the time of submission of the VAAP-AF but however, the taxpayer may be given extension and allowed to submit such schedule within thirty (30) days from the time of submission of the VAAP-AF). The receiving officer in the RDO shall print his name and sign the transmittal letter

submitted by the taxpayer together with the diskette attesting to the fact that the contents of the diskette are readable and prepared in accordance with the

format prescribed in RR 13-97, as amended by RR 7-99. The diskettes, together with the VAAP-AF and VAAP-PF, shall be forwarded by the RDO to the VAT-PCC for review after a back up for the contents of the diskette is created by the RDC and the VAAP-AF and VAAP-PF has been encoded by the RDO in the tracking system.

“2.11 Offices Responsible. – The Offices identified in Annex “B”, as amended, of this Order shall be responsible in ensuring the proper implementation of the Program.”

Section 3. Conditions, Deadlines and Installment Payments of VAAP Availment.- Pertinent portions of Section 3 of Revenue Memorandum Order No. 23-2002 are hereby amended to read as follows:

“Section 3. Conditions, Deadlines, and Installment Payments of VAAP Availment –

“3.1 For Taxpayers Who Have Been Sent LN By The BIR. - For taxpayers who have been sent Letter Notices (LNs), the deadline for the availment of VAAP (i.e., submission of VAAP-AF) shall be stated in the LN unless extension is granted or a different deadline is approved by MANCOM of the BIR. Upon approval, MANCOM shall also state the deadline date from which to reckon the installment payments provided in Section 3.3. hereof.

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“3.2 For Taxpayers Who Have Not Been Sent LN By the BIR. -

“3.2.1 Deadline for VAAP Availment. - Applications for VAAP availment and corresponding payments thereon for all tax types and taxable periods with no noted sales discrepancy must be received on or before November 29, 2002, subject to the right of the taxpayer to pay in installment as that provided in Subsection 3.3 below.

With the effectivity of RR 18-2002 on November 19, 2002 imposing minimum payments on voluntarily disclosed sales/receipts or taxable base, taxpayers who have either submitted VAAP-AF or made initial VAAP payments using VAAP-PF prior to November 19, 2002 shall be considered to have availed of VAAP under the conditions previously provided by RR 17-2002.

In the submission of the VAAP-AF for VAAP availments consisting only of abatement of penalties, the same shall be accompanied by the document showing the original computation of penalties (e.g., reminder letters or Pre-Assessment Notice (PAN) or FAN).

Submission of VAAP-AF for withholding tax on compensation shall be accompanied by Form No. 1604 CF or the alphabetical listing of the employees from whom taxes were withheld indicating therein all the information necessary to compute the withholding tax as reflected and required in BIR Form No. 1604-CF.

Submission of VAAP-AF for expanded/final withholding tax shall be accompanied by a schedule of income payments subjected to withholding tax showing the name of the payee, TIN of payee, nature of income payment, amount of income payment, applicable tax rate, and tax withheld and such other information required to accomplish or fill up BIR Form No. 1604-E.

“3.3. Conditions for Installment Payment of VAAP . –

“3.3.1 For Tax Types and Taxable Year/Period With Noted Discrepancy as Stated in the LN. –

“3.3.1.1 Where the Minimum Amount Is Less Than P500,000. - If the minimum amount as computed is less P500,000, no installment payment shall be allowed and the same shall be paid on or before the deadline set in the LN.

“3.3.1.2 Where the Minimum Amount is P500,000 or More. –

“3.3.1.2.1 For Minimum Amounts Below P3.0 Million but not less than P500,000. – The payment shall be made in two (2) equal parts:

- (i) First installment payment - On or before the deadline set in the LN; and
- (ii) Second installment payment – Within 30 days from the deadline of the first installment.

“3.3.1.2.2 For Minimum Amounts totaling P3.0 Million and above. – The payment shall be made in three (3) equal parts:

- (i) First installment payment – On or before the deadline set in the LN;
- (ii) Second installment payment - Within 30 days from deadline of first installment; and
- (iii) Third installment payment – On or before December 27, 2002 for LNs issued prior to November 7, 2002 and within 30 days from deadline of second installment for LNs issued on November 7, 2002 and thereafter.

“3.3.1.3 Remaining Balance/Additional Payment. - For the remaining balance (i.e., the additional payment to be made in case the 110% of the basic tax is higher than the minimum amount), after full payment of the minimum amount, where said remaining balance/additional payment exceeds P1.0 Million, the same shall be paid in two (2) equal installments, both to be paid on or before December 27, 2002 for LNs issued prior to November 7, 2002.

For LNs issued on November 7, 2002 and thereafter, the first installment payment shall be made within 30 days from date of full payment of minimum amount and the second installment shall be

within 30 days from deadline of first installment payment of the remaining balance.

- “3.3.1.4 **Illustrative Example.** - Mr. X received a LN from the BIR. The LN was dated September 16, 2002 where sales discrepancy has been noted in Year 2001. Among the conditions stated in the LN is for him to pay the minimum amounts on or before October 15, 2002 and to file the VAAP-AF and pay the balance between 110% of basic tax and the minimum amount previously paid on or before October 30, 2002 in case the 110% of the basic tax as computed is higher than the minimum amount paid.

If the minimum amount as computed for income tax amounted to P3,900,000, Mr. X may elect to pay the same in three (3) equal parts which shall be paid on the following dates using the VAAP-PF:

October 15, 2002 - P1,300,000
November 15, 2002 - P1,300,000
Any time before December 27, 2002 – P1,300,000

When he files his VAAP-AF on October 30, 2002 and computes the 110% of the basic tax, his basic tax payable amounted to P5,000,000 where the remaining balance/additional payment thereof is P1,100,000 (i.e., P5,000,000 – P3,900,000). Since the remaining balance/additional payment exceeds the P1,000,000, the same may be paid in two (2) equal parts which shall be paid on or before December 27, 2002. However, such remaining balance shall be considered paid only upon full payment of the minimum amounts. All installment payments for the minimum payments and remaining balance/additional payment must be turned in on or before December 27, 2002.

- “3.3.2. **Installment Payment of VAAP Availment for Tax Types and Taxable Year/Period With No Noted Sales Discrepancy or For Taxpayers Without LN.** – Installment payment must be in three (3) equal parts. The first payment must be made with the Accredited Agent Bank (AAB) using the VAAP-PF before the filing of the VAAP Application Form with the Revenue District Office. The payment form duly filed and validated by the AAB must accompany the VAAP Application Form filed with the RDO. The second and third payments, accompanied by the corresponding VAAP payment forms, must be made to the AAB on or before December 27, 2002.

Provided, that no installment payment shall be allowed if the amount payable is less than five hundred thousand pesos (P500,000.00).

“3.3.3 Request for Extension of Installment Payment. – Notwithstanding the above terms for installment payment, taxpayers may nevertheless request an extension for installment payment of VAAP on the ground of financial incapacity by filing a written request for extension of installment payment to be approved by the Regional Director for those without LN and by

MANCOM for those with LN, subject to delegation to the concerned Regional Director, under certain instances, which extension is premised upon compliance of the following conditions:

“3.3.3.1 Taxpayer must submit a list of banks to which he maintains bank deposits/accounts;

“3.3.3.2 Taxpayer must submit/execute a waiver of bank secrecy of deposits thereby authorizing the BIR to inquire into the bank accounts of the taxpayer to verify claim of financial incapacity;

“3.3.3.3 Taxpayer must submit a written undertaking to pay the VAAP amount by installment within a period not exceeding six (6) months from the date of filing of VAAP-AF; and

“3.3.3.4 Taxpayer must issue postdated checks corresponding to the installment payments to be made.

The above requirements must be filed with the RDO at the time of the submission of the VAAP-AF for those without LN and for taxpayers with LN, such requirements must be submitted to MANCOM, through the Office of the Commissioner, for evaluation.

“3.4 Additional Conditions for Taxpayers’ Availment of VAAP on One-Time Transactions.-

3.4.1 Submission of Appropriate Returns and Additional Requirements. - Aside from the submission of VAAP-AF and VAAP-PF, taxpayers availing of VAAP for one-time transactions shall at the same time of filing the VAAP-AF be required to manually file with the RDO the appropriate tax returns (in case of no returns previously filed) or amended returns (in case of returns previously filed) as well as the applicable documentary requirements enumerated at the back thereof and such other documents as may be necessary to evaluate and properly compute the valuation of the property sought to be transferred either by way of gratuitous or onerous transfer as well as properly check the deductions and tax credits claimed and determine the amount of tax due.”

3.4.2 Issuance of Certificate of Qualification. - The issuance of Certificate Authorizing Registration (CAR)/Tax Clearance Certificate (TCL) on VAAP availments involving the transfer of real property and/or shares of stock shall be conditioned to issuance of Certificate of Qualification to be issued by the Regional Director upon proper review by the Assessment Division after the VAAP docket has been processed by the RDOs. The same shall be issued by the Regional Director within fourteen (14) days from receipt of VAAP docket as recommended for approval by the Chief, Assessment Division.

The Certificate of Qualification shall be issued in three (3) copies where the original copy shall go to the taxpayer, duplicate copy to the Issuing Office and the triplicate copy to be filed in the docket of the case. The same shall be numbered and accounted for using the same procedures provided in RMO 21-

2001 which operationalized Revenue Regulations No. 8-2001, as amended, otherwise known as the “Voluntary Assessment Program”. The RDO which processed the VAAP-AF shall issue all the needed CARs (one CAR per Register of Deeds or one CAR per property, whichever is the prescribed rule and procedure under existing normal procedures) upon taxpayer’s presentation of the duly issued Certificate of Qualification.”

Section 4. Processing of VAAP.- Pertinent portions of Section 4 of Revenue Memorandum Order No. 23-2002 are hereby amended to read as follows:

“ xxx xxx xxx

“ 4.3 Availment of VAAP..

4.3.1 For Taxpayers with LN. - xxx xxx xxx

If VAAP availment is qualified for installment. - If the minimum amount as computed is qualified to be paid in installment, the taxpayer shall make the first installment on or before the deadline set in the LN to the concerned AAB using the VAAP-PF which must be accomplished in the same manner provided above. The second and the third installment, if applicable, shall be paid within the period required in Subsection 3.3.1 hereof by paying the same to the AAB using the same VAAP-PF.

The VAAP-AF shall not be filed with the AAB but rather with the RDO on or before the deadline set in the LN even if at the time of the submission thereof, there still remains a portion of the minimum amount that needs to be paid on installment. The remaining balance of the computed 110% of the basic tax, in case the same is higher than the minimum amount, as required in the VAAP-AF shall be paid to the concerned AAB in two (2) equal installments, if the amount involved exceeds P1,000,000; otherwise, the same shall be paid in full within thirty (30) days from full payment of the minimum amount.

Copies of all Official Receipts/ BIR-prescribed deposit slips issued by the concerned AAB as well as VAAP-PF duly validated by the AAB corresponding to the installments payments shall continually be furnished by the taxpayer to the RDOs who shall attach the same to the VAAP-AF submitted and who shall encode into the Tracking System all installment payments received.

4.3.2 For Taxpayers without LN.- xxx xxx xxx

If VAAP availment is qualified for installment. - If the 110% basic tax is qualified to be paid in installment, the taxpayer shall make the installment

payments to the concerned AAB using the VAAP-PF within the period prescribed in Subsection 3.3.2 hereof which must be accomplished in the same manner provided above.

The VAAP-AF shall not be filed with the AAB but rather with the RDO on or before the deadline set in Subsection 3.2 above. Copies of all Official

Receipts/BIR-prescribed deposit slips and duly validated VAAP-PF corresponding to the installments payments shall continually be furnished by the taxpayer to the RDOs who shall attach the same to the VAAP-AF submitted and who shall encode into the Tracking System all installment payments received.

4.3.3 xxx xxx xxx

“xxx xxx xxx

4.3.7 In processing of the VAAP-AF and VAAP-PF filed for one-time transactions including the tax returns physically/manually filed with the RDOs in respect thereto, the RDOs must ensure the completeness of the documentary requirements, correctness of tax as computed as well as ascertain that the valuation rules used and the deductions claimed are well in accordance with the statutes in force at the time when the taxable event occurred.

Once reviewed and information contained in the VAAP-AF and VAAP Payment Form have been encoded in the Tracking System, the Certificate of Qualification shall be prepared and initialed by the RDO and the entire VAAP docket including attachments thereto shall be submitted to the Chief, Assessment Division within five (5) days from receipt of complete documents from taxpayer, for final review and evaluation.

The Chief, Assessment must be able to review the same within fourteen (14) days from receipt of docket from the RDO and submit his/her recommendation to the Regional Director. The Chief, Assessment Division, upon review, shall likewise affix his/her initial to the Certificate of Qualification and the VAAP docket including all attachments shall be transmitted to the Regional Director for the approval of the Certificate of Qualification which shall be signed and approved not later than seven (7) days from receipt of docket from the Chief, Assessment Division. The Certificate of Qualification must be issued within forty five (45) days from receipt of complete documentary requirements from the taxpayers, otherwise, the taxpayer may elevate to the MANCOM of the BIR a complaint of non-issuance of the Certificate of Qualification within the prescribed time.

Once Certificate of Qualification is signed by the Regional Director and VAAP docket as well as attachments are returned to the RDO, the CAR/TCL shall be issued and released to the taxpayer together with the Certificate of Qualification.

It should be noted that the Certificate of Qualification shall only be issued once all the taxes due are completely collected.

- 4.3.8 For VAAP availments of taxpayers identified as stop-filers, the processing thereof shall likewise include ascertaining that all VAAP-AF submitted are accompanied by the physical/manual submission of the respective regular tax returns. Such returns shall be the basis in resolving the stop-filer cases of those who availed of VAAP.

4.4 Disposition of VAAP Availments.-

- 4.4.1 Original copies of the VAAP-AF together with attachments shall be submitted by the RDOs to the TWG-IVD within one (1) week from receipt thereof for matching and consolidation with the taxpayer's docket and which shall immediately be forwarded to the TWG-FVD for evaluation, except for VAAP availments on one-time transactions which shall be reviewed by the Chief, Assessment Division and approved by the Regional Director.
- 4.4.2 TWG-FVD shall then validate the VAAP-AF of taxpayers against the original discrepancy uncovered by RELIEF System. Additional discrepancies shall be provided by TWG-IVD as they are released by the RELIEF System.

If additional discrepancies are uncovered on top of what has been previously discovered and/or voluntarily disclosed, the same shall be referred back to the - RDO for the execution of the actions provided in 2.9 above subject to the amendment of Revenue Regulations No . 18-2002 which increased the threshold amount from 10% or P1,000,000, whichever is lower, to thirty percent (30%). This means that if the additional discrepancy discovered is thirty percent (30%) or below, the VAAP availment shall remain valid, provided that there is payment of additional VAAP amounts as computed in accordance with Section 5 of RR 12-2002 for those who were sent LNs, and for those without LN, the VAAP amount shall be computed based on Section 6 of RR 12-2002 and Section 4 of RR 17-2002 as amended by RR 18-2002.

“xxx xxx xxx”

4.5 Monitoring. –

The TWG-ISG, TWG-IVD, and TWG-FVD shall submit to the VAT-PCC, copy-furnished Collection Service, every Friday of the following week summary progress reports of VAAP availments which shall then be consolidated by VAT-PCC to come up with a consolidated VAAP Management Report Information for submission to MANCOM. Such consolidated report shall be the basis for MANCOM discussion of revenue generated, problems encountered and other matters relative thereto.”

Section 5. Effectivity Clause. – This Order shall take effect immediately.

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