

## SyCipLaw Tax Bulletin:

### **Revenue Regulations No. 4-2019: Implementing Rules and Regulations of Republic Act No. 11213, Otherwise Known as the “Tax Amnesty Act,” Providing for the Guidelines on the Processing of Tax Amnesty Application on Tax Delinquencies**

April 22, 2019

On April 5, 2019, Finance Secretary Carlos G. Dominguez issued Revenue Regulations (“**RR**”) No. 4-2019 to implement the provisions on tax amnesty on delinquencies under Republic Act No. 11213 (“**Tax Amnesty Act**”). RR No. 4-2019 was published in Malaya on April 9, 2019 and took effect fifteen (15) days after its publication, or on April 24, 2019.

The Tax Amnesty Act submitted by Congress originally provided a general tax amnesty in addition to an amnesty for estate taxes and an amnesty for delinquent taxes. President Rodrigo Duterte vetoed the entire section on the general tax amnesty for all unpaid internal revenue taxes and asked Congress to pass another general tax amnesty bill that includes additional safeguards and measures against tax evasion. RR No. 4-2019 covers the tax amnesty for delinquencies. The provisions on estate tax amnesty will be covered by separate revenue regulations.

#### **Who May Avail of Tax Amnesty**

Natural and juridical taxpayers with internal revenue tax liabilities covering taxable year 2017 and prior years may avail themselves of the tax amnesty on delinquencies within one year from the effectivity of the rules, or until April 24, 2020.

#### **What Tax Liabilities Are Covered**

The tax amnesty on delinquencies cover internal revenue tax liabilities for taxable year 2017 and prior years under the following circumstances:

1. Delinquent accounts including (a) those with an application for compromise settlement, whether the same was denied or still pending on or before April 24, 2019, (b) delinquent withholding tax liabilities arising from non-withholding of tax, and (c) delinquent estate tax liabilities;

A **delinquent account** pertains to a tax due from a taxpayer arising from the audit of the Bureau of Internal Revenue (“**BIR**”) where an assessment notice (a final assessment notice or “**FAN**”/Formal Letter of Demand or “**FLD**”) has become final and executory because of the following:

- (i) failure to file a valid protest within thirty (30) days from receipt of the FAN/FLD,

- (ii) failure to file an appeal to the Court of Tax Appeals (“**CTA**”) or an administrative appeal before the Commissioner of Internal Revenue (“**CIR**”) within thirty (30) days from receipt of the decision denying the protest, or
  - (iii) failure to file an appeal to the CTA within thirty (30) days from receipt of the decision of the CIR denying the appeal to the Final Decision on Disputed Assessment (“**FDDA**”).
2. With pending criminal cases with the Department of Justice (“**DOJ**”)/Prosecutor’s Office or the courts for tax evasion and other criminal offenses under the Tax Code, with or without assessments duly issued;
  3. With final and executory judgment by the courts on or before April 24, 2019; and
  4. Withholding tax liabilities of withholding agents arising from their failure to remit withheld taxes.

**Tax Amnesty Rates and Computation of Tax Amnesty Payments**

The tax amnesty rates are:

1. 40% for delinquent accounts which have become final and executory;
2. 50% for tax cases subject of final and executory judgement by the courts;
3. 60% for criminal cases pending before the DOJ or the Prosecutor’s Office; and
4. 100% for withholding agents who failed to remit withheld taxes to the BIR.

To calculate the tax amnesty payment, the tax amnesty rate is applied to the basic tax assessed less any basic tax paid prior to April 24, 2019. The basic tax assessed is the tax due shown on the assessment notice exclusive of penalties, or the basic tax liabilities shown in the criminal complaint filed with the DOJ or the Prosecutor’s Office or in the information filed with the courts, or the basic tax liabilities as per the court’s final and executory decision.

RR No. 4-2019 provides two examples to illustrate the calculation of the amount of tax amnesty payment:

**Illustration 1:  
With denied/pending application for compromise settlement:**

Basic Tax per FAN	P 1,000,000.00
Basic Tax paid per Compromise Settlement application	400,000.00
Net Basic Tax prior to April 24, 2019	P 600,000.00
Multiply by Tax Amnesty Rate	40%
<u>Amount of Tax Amnesty to be paid</u>	<u>P 240,000.00</u>

**Illustration 2:  
With partial/installment payments:**

Basic Tax per FAN	P 1,000,000.00
Partial payment/s made prior to April 24, 2019 (net of payment applied to penalties)	<u>200,000.00</u>
Net Basic Tax	P 800,000.00
Multiply by Tax Amnesty Rate	<u>40%</u>
Amount of Tax Amnesty to be paid	<u>P 320,000.00</u>

In case the delinquent account consists only of unpaid penalties due to either late filing or payment and there is no basic tax assessed, the taxpayer may avail of the tax amnesty by submitting the documentary requirements without making any payment.

**Manner and Place of Filing of Tax Amnesty**

Applicants for the tax amnesty must first secure a Certificate of Delinquencies/Tax Liabilities from the BIR Office concerned as follows:

1. For delinquent tax cases – Revenue District Office (“**RDO**”) where the taxpayer-applicant is registered, or the Regional Collection Division for taxpayer-applicants under the jurisdiction of Revenue Region Nos. 5, 6, 7, or 8 (Caloocan, Manila, Quezon City and Makati, respectively), or the Large Taxpayers Division (Cebu or Davao) or Large Taxpayers Collection Enforcement Division, as the case may be;
2. For tax cases subject of final and executory judgment by the courts – Legal Division of the Regional Office or Litigation/Prosecution Division in the National Office which handled the case; and
3. For tax liabilities covered by a pending criminal case filed with the DOJ/Prosecutor’s Office/Courts - Legal Division of the Regional Office or Revenue Region (for Caloocan, Manila, Quezon City and Makati) or the Prosecution Division of the National Office which handled the case.

Applicants for the tax amnesty on delinquencies shall then submit the following documents to the RDO or Large Taxpayers Division Office where the applicant-taxpayer is registered:

- Tax Amnesty Return (BIR Form No. 2118-DA);
- Duly-validated Acceptance Payment Form (BIR Form No. 0621-DA);
- Certificate of Tax Delinquencies/Tax Liabilities issued by the concerned BIR offices; and
- In the case of delinquent withholding tax liabilities arising from non-withholding of tax, a copy of the assessment found in the FAN/FDDA;

- In the case of withholding tax liabilities of withholding agents arising from failure to remit withheld taxes, the Preliminary Assessment Notice/Notice for Informal Conference or equivalent document, is sufficient.

The completion of all steps under Section 5(C) of RR No. 4-2019 (which includes the filing of all required documents and payment of the taxes and penalties (if applicable)) has to be done within the one-year availment period which is until April 24, 2020.

### **Cancellation of Assessment**

The BIR shall issue a Notice of Issuance of Authority to Cancel Assessment to the applicant taxpayer within fifteen (15) calendar days from submission of the Tax Amnesty Return and the Acceptance Payment Form. Otherwise, the stamped “received” duplicate copies of these documents shall be deemed as sufficient proof of availment.

### **Effect of Tax Amnesty**

Delinquencies for which taxpayers have availed themselves of the amnesty are considered settled, and the criminal case in connection therewith and its corresponding civil or administrative case, if applicable, are terminated.

The availment of the tax amnesty on delinquencies and the issuance of the corresponding Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing taxpayer.

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If you require any advice or information, please contact SyCipLaw using the following contact details:

**SyCip Salazar Hernandez & Gatmaitan**  
SyCipLaw Center, 105 Paseo de Roxas  
Makati City 1226, The Philippines  
t: +632 982 3500; +632 982 3600; +632 982 3700  
f: +632 817 3145; +632 817 3896  
e: [taxdept@syciplaw.com](mailto:taxdept@syciplaw.com)  
[www.syciplaw.com](http://www.syciplaw.com)