

September 27, 2001

REVENUE REGULATIONS NO. 13-2001

SUBJECT: Implementing Section 204(B), in Relation to Section 290 of the Tax Code of 1997, Regarding Abatement or Cancellation of Internal Revenue Tax Liabilities.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. – Pursuant to Section 244 of the National Internal Revenue Code of 1997 (Code), these Regulations are hereby promulgated for the purpose of implementing Section 204(B), in relation to Sections 7(c) and 290 of the same Code, regarding the authority of the Commissioner of Internal Revenue (Commissioner) to abate or cancel internal revenue tax liabilities of certain taxpayers based on any of the following grounds, viz:

- “(1) The tax or any portion thereof appears to be unjustly or excessively assessed; or*
- “(2) The administration and collection costs involved do not justify the collection of the amount due.”*

Disputed assessments pursuant to the provisions of Section 228 of the Code and its implementing rules and regulations, and assessments which are void from the beginning are not covered by these Regulations.

SEC. 2. INSTANCES WHEN THE PENALTIES AND/OR INTEREST IMPOSED ON THE TAXPAYER MAY BE ABATED OR CANCELLED ON THE GROUND THAT THE IMPOSITION THEREOF IS UNJUST OR EXCESSIVE.–

- 2.1 When the filing of the return/payment of the tax is made at the wrong venue;**
- 2.2 When taxpayer’s mistake in payment of his tax is due to erroneous written official advice of a revenue officer;**
- 2.3 When taxpayer fails to file the return and pay the tax on time due to substantial losses from prolonged labor dispute, *force majeure*,**

legitimate business reverses such as in the following instances, provided, however, that the abatement shall only cover the surcharge and the compromise penalty and not the interest imposed under Section 249 of the Code:

- 2.3.1 Labor strike for more than six (6) months which has caused the temporary shutdown of business;
 - 2.3.2 Public turmoil;
 - 2.3.3 Natural calamity such as lightning, earthquake, storm, flood and the like;
 - 2.3.4 Armed conflicts such as war or insurgency;
 - 2.3.5 Substantial losses sustained due to fire, robbery, theft, embezzlement;
 - 2.3.6 Continuous heavy losses incurred by the taxpayer for the last two (2) years;
 - 2.3.7 Liquidity problem of the taxpayer for the last three (3) years; or
 - 2.3.8 Such other instances which the Commissioner may deem analogous to the enumeration above.
- 2.4 When the assessment is brought about or the result of taxpayer's non-compliance with the law due to a difficult interpretation of said law;**
- 2.5 When taxpayer fails to file the return and pay the correct tax on time due to circumstances beyond his control, provided, however, that abatement shall cover only the surcharge and the compromise penalty and not the interest;**
- 2.6 Late payment of the tax under meritorious circumstances such as those provided hereunder:**
- 2.6.1 One day late filing and remittance due to failure to beat bank cut-off time;
 - 2.6.2 Use of wrong tax form but correct amount of tax was remitted;
 - 2.6.3 Filing an amended return under meritorious circumstances, provided, however, that abatement shall cover only the penalties and not the interest;
 - 2.6.4 Surcharge erroneously imposed;
 - 2.6.5 Late filing of return due to unresolved issue on classification/valuation of real property (for capital gains tax cases, etc.);
 - 2.6.6 Offsetting of taxes of the same kind, i.e., overpayment in one quarter/month is offset against underpayment in another quarter/month;
 - 2.6.7 Automatic offsetting of overpayment of one kind of withholding tax against the underpayment of another kind;

- 2.6.8 Late remittance of withholding tax on compensation of expatriates for services rendered in the Philippines pending the issuance by the Securities and Exchange Commission of the license to the Philippine branch office or subsidiary, provided, however, that the abatement shall only cover the surcharge and the compromise penalty and not the interest;
- 2.6.9 Wrong use of Tax Credit Certificate (TCC) where Tax Debit Memo (TDM) was not properly applied for; and
- 2.6.10 Such other instances which the Commissioner may deem analogous to the enumeration above.

2.7 Other cases similar or synonymous thereto.

SEC. 3. INSTANCES WHEN THE TAX LIABILITIES, PENALTIES AND/OR INTEREST IMPOSED ON TAXPAYER MAY BE ABATED OR CANCELLED ON THE GROUND THAT THE ADMINISTRATION AND COLLECTION COSTS ARE MORE THAN THE AMOUNT SOUGHT TO BE COLLECTED. – When the administrative and collection costs, including cost of litigation, are much more than the amount that may be collected from the taxpayer, the assessment maybe reduced through abatement, or entirely cancelled pursuant to Section 204(B) of the Code. The instances that may fall under this category are the following:

- 3.1 Abatement of penalties on assessment confirmed by lower court but appealed by the taxpayer to a higher court;
- 3.2 Abatement of penalties on withholding tax assessment under meritorious circumstances;
- 3.3 Abatement of penalties on delayed installment payment under meritorious circumstances;
- 3.4 Abatement of penalties on assessment reduced after reinvestigation but taxpayer is still contesting reduced assessment; and
- 3.5 Such other instances which the Commissioner may deem analogous to the enumeration above.

For items 3.1 to 3.4 above, the abatement of the surcharge and compromise penalty shall be allowed only upon written application by the taxpayer signifying his willingness to pay the basic tax and interest or basic tax only, whichever is applicable under the prevailing circumstance.

SEC. 4. THE COMMISSIONER HAS THE SOLE AUTHORITY TO ABATE OR CANCEL TAX, PENALTIES AND/OR INTEREST. – The Commissioner has the sole authority to abate or cancel internal revenue taxes, penalties and/or interest pursuant to Section 204(B), in relation to Section 7(c), both of the Code. This authority is generally applicable to surcharge and compromise penalties only, however, in meritorious instances, the Commissioner may likewise abate the interest as well as basic tax assessed, provided, however, that cases for

abatement or cancellation of tax, penalties and/or interest by the Commissioner shall be coursed through the following officials:

- 4.1 The Deputy Commissioner (Operations Group), who shall constitute a Technical Working Committee (TWC) for the evaluation and review of any application for abatement or cancellation of tax, penalties and/or interest processed by the Revenue District Office (RDO) as reviewed by the Regional Office (RO), or by the Large Taxpayers' Service's Collection or Audit Division and Large Taxpayers District Office (LTDO) as reviewed by the Large Taxpayers Service (LTS), or by Collection Enforcement Division/ Withholding Agent and Monitoring Division as reviewed by the Collection Service, or by the Legal Service, or any other office that has jurisdiction over the case; and
- 4.2 The Deputy Commissioner (Legal and Inspection Group), who shall evaluate the legal issue involved in the case.

The application for abatement or cancellation of tax, penalties and/or interest should state the reasons and causes for such request. Documentary proofs for the underlying reasons and causes aforesated should be appended to the "Application for Abatement or Cancellation of Tax, Penalties and/or Interest" (Annex "A"). On the other hand, denial of the application for abatement or cancellation of tax, penalties and/or interest should state the reasons therefor.

SEC. 5. PROCESSING TIME. – The application for abatement or cancellation of tax, penalties and/or interest should be acted upon by the processing office and reviewing office within five (5) days from receipt by said office. The BIR National Office has thirty (30) days within which to act on the case.

SEC. 6. REPORT OF THE COMMISSIONER TO THE CONGRESSIONAL OVERSIGHT COMMITTEE (COC). – The Commissioner shall submit to the Congressional Oversight Committee (COC), 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 power to abate or cancel tax liabilities, penalties and/or interest imposed on taxpayers. In this regard, all the originating offices which processed the application for abatement or cancellation of tax, penalties and/or interest shall likewise prepare for this activity/process (abatement) all the reports being prepared in the collection of taxes under the compromise power of the Commissioner, unless the Commissioner provides otherwise.

SEC. 7. TRANSITORY PROVISIONS. - Dockets that are already in the National Office as of the effectivity of these Regulations shall no longer be returned to the Region but shall be processed taking into consideration the recommendation of the originating office, although subject to review and modification by the National Office.

SEC. 8. REPEALING CLAUSE. – All existing rules and regulations or rulings 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