REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FORMER SECOND DIVISION

SPS. CESAR AND DEBBIE MARTIN, Petitioners,	**C.T.A. CASE NO. 7417**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** OCT 2 6 2010 2:50 p.m.

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RESOLUTION

Upon consideration of petitioners' **"Supplemental Formal Offer of Evidence"** filed on September 1, 2010, with respondent's **"Comment (Re: Supplemental Formal Offer of Evidence dated 27 August 2010)"** filed on September 13, 2010 interposing no objection thereto, this Court hereby **RESOLVES** to **ADMIT** Exhibits **"U"** to **"Y"**, and considered as part of petitioners' evidence in support of the availment of tax amnesty.

The Court shall now determine whether or not petitioners conform with the requirements specified under Section 2 of Republic Act (RA) No. 9480, in relation to Department Order No. 29-07 (Implementing Rules and Regulations of RA No. 9480) in order to avail of the benefits thereof.

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Records reveal that on October 26, 2007, petitioners availed of the Tax Amnesty Program under Republic Act (RA) No. 9480, paid the amnesty tax to Philtrust Bank, Quezon Avenue Branch, and in support thereof, submitted the certified true copies of the following documents: (1) Notice of Availment of Tax Amnesty (Exhibit "U"); (2) Statement of Assets, Liabilities and Net Worth (SALN) as of December 31, 2005 (Exhibit "V") with Balance Sheet attached thereto; (3) Tax Amnesty Return or BIR Form No. 2116 (Exhibit "W"); (4) Tax Amnesty Payment Form or BIR Form No. 0617 (Exhibit "X"); and (5) Philtrust Bank BTR-BIR Deposit Slip evidencing payment of P50,000.00 (Exhibit "Y").

Worthy to mention that RA No. 9480, entitled "An Act Enhancing Revenue Administration and Collection By Granting An Amnesty On All Unpaid Internal Revenue Taxes Imposed By the National Government for Taxable Year 2005 and Prior Years", provides that any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under said Act shall file with the Bureau of Internal Revenue (BIR) a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR.[1]

Additionally, Section 4 of RA No. 9480 provides thus:

> **"SEC. 4. *Presumption of Correctness of the SALN.* —** The SALN as of December 31, 2005 shall be considered as true and correct except where the amount of declared networth is understated to the extent of thirty percent (30%) or more as may

[1] Section 2 of Republic Act No. 9480

> be established in proceedings initiated by, or at the instance of, parties other than the BIR of its agents: Provided, That such proceedings must be initiated within one year following the date of the filing of the tax amnesty return and the SALN. Findings of or admission in congressional hearings, other administrative agencies of government, and/or courts shall be admissible to prove a thirty percent (30%) under-declaration". *(Underscoring Ours)"*

Likewise, it appears that petitioners are not disqualified from availing of the tax amnesty provided under RA No. 9480[2], and that they had appropriately complied with the requirements set forth under said law. Moreover, to date, the contestability period of one (1) year from the time of petitioners' availment of the tax amnesty law on October 26, 2007 had elapsed. Correspondingly, it is fully entitled to the immunities and privileges mentioned under Section 6 of RA No. 9480, which reads:

> "**SEC. 6.** ***Immunities and Privileges.*** — Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:
>
> 1. The taxpayer shall be immune from the payment of taxes, as well as addition thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years.

[2] SEC. 8 of Republic Act No. 9480 mentions the ***Exceptions***, as follows— The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act: (a) Withholding agents with respects to their withholding tax liabilities; (b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government; (c) Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act; (d) Those with pending cases filed in court involving violation of the Anti-Money Laundering Law; (e) Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and (f) Tax cases subject of final and executory judgment by the courts.

2. The taxpayer's Tax Amnesty Returns and the SALN as of December 31, 2005 shall not be admissible as evidence in all proceedings that pertain to taxable year 2005 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and except for the purpose of ascertaining the networth beginning January 1, 2006, the same shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in cases brought against him.

3. The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined: Provided, That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws."

The foregoing is bolstered in ***Philippine Banking Corporation (now Global Business Bank, Inc.) vs. Commissioner of Internal Revenue,*** wherein it held that:

"Considering that the completion of these requirements shall be deemed full compliance with the tax amnesty program, **the law mandates that the taxpayer shall thereafter be immune from payment of taxes, and additions thereto, as well as the appurtenant civil, criminal or administrative penalties under the NIRC of 1997, as amended, arising from failure to pay any and all internal revenue taxes for taxable year 2005 and prior years**.[3] *(Emphasis Ours)*

WHEREFORE, the subject assessments in the present case against petitioners are hereby **SET ASIDE** solely in view of petitioner's availment of the Tax Amnesty Program under RA No. 9480.

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[3] *G.R. No. 170574, January 30, 2009.*

Accordingly, the instant Petition for Review is **DISMISSED** and this case is hereby considered **CLOSED** and **TERMINATED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice