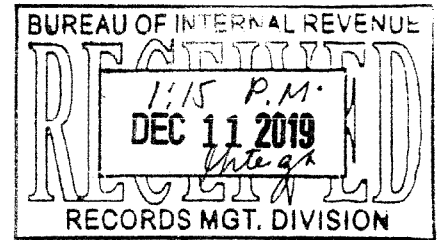




REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City



DEC 11 2019

REVENUE MEMORANDUM CIRCULAR NO. 135-2019

SUBJECT : Reiteration of the Prescribed Procedures in the Availment of the Tax Amnesty on Delinquencies (TAD) and Additional Clarification on Issues Raised Relative thereto

TO : All Revenue Officers, Employees and Others Concerned

This Revenue Memorandum Circular (RMC) is issued to reiterate the prescribed procedures in the availment of the Tax Amnesty on Delinquencies and address complaints against BIR revenue officials and employees due to either misunderstanding of some taxpayers on the law itself or total disregard of the approved implementing rules and regulations.

Since the effectivity of Revenue Regulations (RR) No. 4-2019 on April 24, 2019, the Bureau continues to receive complaints from certain taxpayers alleging deprivation of the tax amnesty program on delinquencies due to the definition provided under RR No. 4-2019 on "delinquent accounts", which in their opinion, limits the coverage of the said tax amnesty, since the "stop-filer" cases and delinquent accounts arising from non-payment of self-declared tax due were not considered "delinquent accounts" for purposes of the implementation of Republic Act (RA) No. 11213.

Such definition is aligned with the provisions of the aforesaid RA No. 11213 which expressly provides that the tax amnesty amount shall be based on the "basic tax assessed". This simply means that there should be an assessment of tax due made by the Bureau of Internal Revenue (BIR), which should be final and executory, except in case of unremitted tax withheld and those covered by a pending criminal case. Thus, a "stop-filer" case which merely pertains to failure of the taxpayer to file the required return is not qualified for tax amnesty in the absence of tax assessment. In addition, those tax liabilities arising from failure to pay in full and non-payment of the tax due declared per tax returns are not qualified for tax amnesty unless, prior to April 24, 2019, a letter to the withholding agent or preliminary collection letter demanding remittance/payment of taxes withheld but not remitted, as declared per return, was sent by the BIR. These issues were clarified in the earlier released Revenue Memorandum Circular No. 57-2019, particularly Question and Answer items 9, 10, 14 and 26, which are quoted below:

"Q9. Can tax amnesty on delinquencies be availed of even if there is no Final Assessment Notice (FAN)/Formal Letter of Demand (FLD)/Final Decision on

Disputed Assessment (FDDA) that has become final and executory on or before April 24, 2019?

A9. Tax amnesty on delinquencies can be availed of even if there is no FAN/FLD/FDDA that has become final and executory if the tax liabilities fall under any of the following instances:

- (1) The tax liabilities are related to the pending criminal cases with the DOJ/prosecutor's Office or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the Tax Code as amended; and*
- (2) The tax liabilities pertain to unremitted tax withheld by withholding agents.*

Q10. What would be the basis of the tax amnesty payment if the pending criminal charges of the taxpayer as of April 24, 2019 pertain to "failure to obey summon" but the legal complaint does not have assessment of unpaid basic tax?

A10. When a criminal charge pertains to "failure to obey summon", the legal officer requires the examiner to issue an assessment based on best evidence obtainable. If an assessment has already been issued as of April 24, 2019, whether final or not, the basis of the tax amnesty would be the basic tax per such document. Otherwise, the taxpayer could not avail of the tax amnesty on delinquency.

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Q14. Are open stop-filer cases included in the amnesty?

A14. No, these are not covered under RR No. 4-2019.

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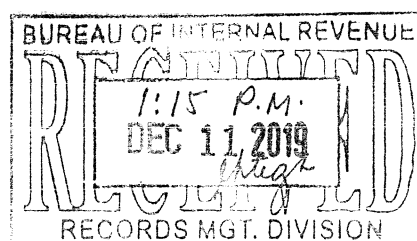
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Q26. Under RR 4-2019, Preliminary Assessment Notice (PAN)/Notice for Informal Conference (NIC) or equivalent document is sufficient document of the taxpayer to support the tax liabilities pertaining to unremitted tax withheld. What are those equivalent document being referred to?

A26. Equivalent document can be any of the following, provided the same was issued on or before April 24, 2019, and the taxable period involved are 2017 and prior years:

- a. Letter to the withholding agent demanding remittance of the amount not remitted based on the withholding tax returns filed;*



- b. *Letter to the withholding agent demanding the remittance of tax withheld based on the Commission on Audit (COA) reports, for those subject to COA audit;*
- c. *Preliminary Collection Letter demanding the payment of tax withheld declared per returns filed.*

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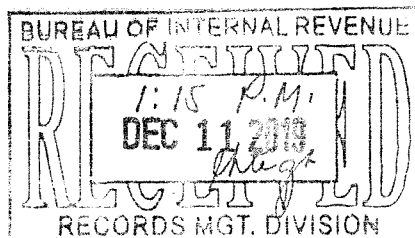
Public hearings were conducted before the implementing rules and regulations were approved by the Secretary of Finance and therefore, it should be enforced accordingly for the efficient and orderly implementation of the tax amnesty program. In this regard, the following procedures as prescribed under Revenue Memorandum Order (RMO) No. 23-2019 must be strictly complied by all concerned:

- a. Tax Amnesty Return (TAR) (BIR Form No. 2118-DA), completely and accurately accomplished and made under oath.
- b. Acceptance Payment Form (APF) or BIR Form 0621-DA must be duly endorsed by the concerned BIR Officials.
- c. Certificate of Tax Delinquencies (CTD) must be issued and signed only by the authorized BIR officer and not by the taxpayer who is availing of the tax amnesty.

In addition, the immunity and privileges shall only apply to the particular tax type and taxable period as indicated in the TAR and paid under duly approved APF. Consequently, tax liability/ies for taxable period/s and/or tax type not included in the tax amnesty application will not be cancelled.

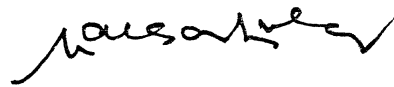
Moreover, the Notice of Issuance of Authority to Cancel Assessment (NIATCA) shall be issued by the BIR to the taxpayer availing of the Tax Amnesty on Delinquencies within fifteen (15) calendar days from submission of the APF and TAR. Otherwise, the stamped “received” duplicate copies of the APF and TAR shall be deemed as sufficient proof of availment.

Finally, pursuant to Section 9 of RR No. 11-2006, *“only those Tax Agents/Practitioners, Partners, or Officers of General Professional Partnerships, or Officers or Directors of corporate entities engaged in tax practice who have been issued Certificate of Accreditation or ID card shall be allowed to represent a taxpayer or transact business with the Bureau of Internal Revenue in representation of a taxpayer for the purpose(s) defined in these regulations.”* Therefore, BIR revenue officers are instructed to deal only with taxpayers themselves or their tax agents who are duly accredited with BIR. Taxpayers are likewise advised to secure only the services of tax agents included in the list of accredited tax agents as posted in the BIR website, or the services of *bona fide* tax lawyers, and to exercise due diligence



in securing their services since those posing as accredited tax agents are providing wrong information to the detriment of the taxpayers.

All internal revenue officers, employees and others concerned are enjoined to give this Circular a wide publicity as possible.



CAESAR R. DULAY

Commissioner of Internal revenue

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