

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

December 16, 2002

REVENUE REGULATIONS NO. 28-2002

SUBJECT : Extending Further the Period for the Availment of the Last Priority In Audit under the Voluntary Assessment and Abatement Program (VAAP), Amending for this Purpose, Revenue Regulations Nos. 12-2002, 17-2002, 18-2002, and 23-2002, and for Other Purposes.

TO : All Internal Revenue Officers and Others Concerned.

SECTION 1. SCOPE. - Pursuant to Section 244, in relation to Sections 6, 115, 204, 254, 256, and other pertinent provisions of the National Internal Revenue Code of 1997 (Code), these Regulations are hereby issued to amend certain provisions of Revenue Regulations Nos. (RR) 12-2002, 17-2002, 18-2002 and 23-2002 relative to the deadline in the availment of VAAP and some other documents and conditions that may be required from taxpayers requesting for extension in installment payment.

SEC. 2. DURATION OF THE VAAP. - The first and second paragraphs of Sec. 3 of RR No. 17-2002, as amended by RR No. 18-2002 and RR No. 23-2002, is hereby further amended to read as follows:

“SEC. 3. DURATION OF THE VAAP. - Using the VAAP-Application Forms and VAAP-Payment Forms, **the deadline for the filing of the** applications for VAAP availments and corresponding payments thereon for the taxes and taxable periods covered by Section 2(B) hereof on voluntarily disclosed sales/receipts/income or taxable base **is hereby further extended until October 31, 2003 unless sooner revoked,** subject to the right of the taxpayer to pay in installments as that provided under Section 5 of these Regulations.”

For taxpayers who have been sent Letter Notices (LNs), the deadline for the availment of VAAP (i.e., submission of VAAP-AF) shall be the date 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 new deadline date from which to reckon the installment payments provided in Section 5 (A) hereof. **Provided however, that all taxpayers with LNs with deadline fixed on or before December 16, 2002 may still avail of the VAAP until December 27, 2002, without additional penalties.**

SEC. 3. COMPUTATION OF THE AMOUNTS PAYABLE. – Section 4 of RR No. 17-2002, as last amended by RR No. 23-2002, is hereby further amended to read as follows:

“SEC. 4. COMPUTATION OF THE AMOUNTS PAYABLE.-

(A) Income Tax – The income tax payable shall be the highest amount computed under the following:

- (1) 110% of the basic tax due if there is underdeclaration of the taxable base either through underdeclaration of sales/receipts or overclaim of deductions/tax credits;
- (2) Based on percentage of sales/receipts for-
 - (a) Individuals - 0.5% of correct sales less tax due and paid per return
 - (b) Corporations - 1% of correct sales less tax due and paid per return;
- (3) 10% of tax due per return if, for the covered year, the ratio of tax due per return over sales/receipts exceeds 2%; or 20% of the tax due per return if, for the covered year, the ratio of tax due per return over sales/receipts does not exceed 2%; or
- (4) The minimum amount of P50,000 for corporations or P10,000 for individuals.

(B) Value Added Tax – The VAT payable shall be the highest amount computed as follows:

- (1) 110% of the basic tax due if there is underdeclaration in the taxable base due to underdeclaration of sales/receipts or overclaim of deductions and/or tax credit;
- (2) 10% of the total output tax per original return; or
- (3) The fixed minimum amount of P50,000 for individuals or P100,000 for corporations.

(C) Excise Tax – The excise tax payable shall be higher amount in any of the following:

- (1) 110% of the basic tax due on the adjusted tax base; or
- (2) 2% of the voluntarily disclosed taxable base.

(D) Percentage Tax – The percentage tax payable shall be the highest amount in any of the following:

- (1) 110% of the adjusted basic tax due if there is an underdeclaration in the taxable base due to underdeclaration in sales/receipts or overclaim of deductions and/or tax credits;
- (2) 20% of tax due per original return filed, if taxpayer shall avail of allowable installment payment privilege; or 10% of the tax due per original return filed, if the taxpayer shall not avail of the installment payment privilege;
- (3) The minimum fixed amount of P10,000 for individuals or P50,000 for corporations.

(E) Improperly accumulated earnings tax – The improperly accumulated earnings tax payable shall be 110% of the basic tax due on the improperly accumulated earnings computed in accordance with Section 29 of the Code, as implemented by RR No. 2-2001;

(F) Withholding tax payable by taxpayers engaged in business – The VAAP amount shall be 110% of the basic tax due for taxpayers who will not avail of the allowable installment payment privilege, or 120% of the basic tax due for taxpayers who will avail of the allowable installment payment privilege;

(G) Documentary stamp tax payable by taxpayers engaged in business – The VAAP amount shall be 110% of the basic tax due for taxpayers who will not avail of the allowable installment payment privilege, or 120% of the basic tax due for those who will avail of the allowable installment payment privilege;

(H) Taxes on one-time transactions – The VAAP amount is at 120% of the basic tax due whether it may be the estate tax, donors tax, or capital gains tax/expanded withholding tax/documentary stamp tax or any other tax on the sale, exchange or other disposition of real property or shares of stock; and

(I) VAAP amount for accrued penalties – Penalties that have accrued due to late payment of basic tax may be the subject of VAAP availment, provided, that the VAAP amount payable shall be the interest at the rate of 20% per annum computed from the date when the basic tax was supposed to be paid up to the time of the payment thereof (**i.e., basic tax**). **In all instances, this provision applies only to situations where the basic tax has already been paid.**

It is reiterated, likewise, that taxpayers receiving Letter Notices (LNs) shall pay the amounts as stated in the Letter Notices (LNs) computed pursuant to Section 5 of RR No. 12-2002, specifically on income tax, value added tax and excise tax. For other tax types, the

amount payable shall be determined using the rules on voluntary disclosure. However, for availments starting January 2003, the amounts payable shall be imposed with a progressively increasing additional penalty of five percent (5%) every month, thus-

<u>For the Month of</u>	<u>the Additional Penalty is</u>
January 2003	5% of the amount payable per LN
February 2003	10%
March 2003	15%
April 2003	20%
May 2003	25%
June 2003	30%
July 2003	35%
August 2003	40%
September 2003	45%
October 2003	50%

whereas for those who will avail of the VAAP voluntarily (those without LN), the additional penalty is at a progressive rate of only two and one half percent (2.5%) for every month, thus-

<u>For the Month of</u>	<u>the Additional Penalty is</u>
January 2003	2.5% of the amount determined from subparagraphs (A) to (I) above
February 2003	5%
March 2003	7.5%
April 2003	10%
May 2003	12.5%
June 2003	15%
July 2003	17.5%
August 2003	20%
September 2003	22.5%
October 2003	25%

Payment of the above amounts shall be in lieu of surcharge, interest and penalties otherwise due on the deficiency taxes payable by the taxpayer, subject to Section 7 hereof.

As used herein, the term basic tax shall mean tax due less tax paid in the original return.

All VAAP availments made pursuant hereto shall be subject to the review and evaluation by the National Office unless otherwise delegated upon order by the Commissioner of Internal Revenue.

SEC. 4. INSTALLMENT PAYMENTS.- Sec. 5 of RR 17-2002, as amended by RR 18-2002 and RR 23-2002, is hereby further amended to read as follows:

“SEC. 5. INSTALLMENT PAYMENTS. -

“(A) Installment Payment of Minimum Amounts per Letter Notices and the Remaining Balance, if any, if the 110% of the Basic Tax is Higher than the Minimum Amounts – Installment payment of the minimum amounts per letter notices is hereby allowed under this section. The schedule of the installments shall be as follows:

1. For Minimum Amounts Payable totaling P3.0M and above, payment must be in three equal parts as follows:
 - (a) The first installment must be on the deadline set in the letter notice;
 - (b) The second installment must be paid within 30 days from the deadline of first installment;
 - (c) The third installment must be made within the year 2002.
2. For Minimum amounts Payable totaling between **P0.5M and less than P3.0M**, payment must be in two equal parts as follows:
 - (a) First installment must be in A-1 (a)
 - (b) Second installment must be in A-1 (b)

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

All payments, accompanied by a duly accomplished VAAP payment form, must be submitted and made to an AAB of the RDO having jurisdiction over the taxpayer.

For the remaining balance, if any, upon filing of the submission (VAAP Application Form) where the remaining amount payable exceeds P1M, the same shall be paid in two equal installments, both to be paid in year 2002.

Provided however, that for availment allowed to be filed after December 16, 2002, the schedule of the installments shall be as follows:

- (a) **The first installment payment must be on the deadline date;**
- (b) **The second installment payment, if applicable, must be within fifteen days from the date of the first installment;**
- (c) **The third installment payment, if applicable, must be within fifteen days from the date of the second installment.**

For the remaining balance, if any, upon filing of the submission (VAAP Application Form) where the remaining amounts payable exceeds P1M, the same shall be paid in two equal installments, with fifteen days interval from the last installment payment.

- “(B) Installment Payment of Voluntarily Disclosed Amounts. –** Installment payment must be in three (3) equal parts. The first payment must be made 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 VAAP payment form, must be made to the AAB within the year 2002.

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

Provided however, that for availment allowed to be filed after December 16, 2002, the schedule of the installments shall be as follows:

- (a) The first installment payment must be on the deadline date;**
- (b) The second installment payment, if applicable, must be within fifteen days from the date of the first installment;**
- (c) The third installment payment, if applicable, must be within fifteen days from the date of the second installment.**

- “(C) 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 ground of financial incapacity by filing a written request for extension of installment payment to be approved by the Regional Director, subject to the following conditions:

- (1) Taxpayer must submit a list of banks to which he maintains bank deposits/accounts;**
- (2) Taxpayer must submit/execute a waiver of bank secrecy of deposits thereby authorizing the BIR to inquire into banks accounts to verify claim of financial incapacity;**
- (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

- (4) Taxpayer must issue postdated checks **and must accomplish and sign VAAP-PFs** 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.”

- (D) Default in Installment Payment.- In case of default in installment payment, the same shall bear interest at the rate of twenty percent (20%) per annum. The interest shall be reckoned from the due date when the installment payment is supposed to be paid until actual payment and shall be computed based on the diminishing balance of the VAAP amount as of the time of installment.”**

SEC. 5. EFFECTIVITY CLAUSE. – The provisions of these Regulations shall take effect immediately following publication in a newspaper of general circulation.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval :

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