

IMPLEMENTING SECTION 249 OF THE TAX CODE

BIR REVENUE REGULATIONS NO. 3-91, January 24, 1991

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SECTION 1. Scope – Pursuant to the provisions of Sections 245, in relation to Section 249, both of the NIRC, these regulations are hereby promulgated to prescribe a deficiency or delinquency rate of interest higher than twenty percent (20%) per annum.

SECTION 2. Rate of Interest –

a. In general, there shall be assessed and collected on any unpaid amount of tax from the date prescribed for its payment until it is fully paid, interest at the rate of either twenty percent (20%) per annum or the prevailing rate fixed and published by the Central Bank, on the first Monday of each month, known as the Manila Reference Rate (MRR), whichever is higher.

In computing for the interest, the MRR at the time of payment shall be applied. If the payment falls on a day after the end of the month but before the first Monday of the succeeding month, the applicable rate shall be the MRR of the last month.

b. Deficiency interest. Where any amount of tax due or installment thereof or any part of such amount or installment is not paid on or before the date prescribed for its payment, there shall be assessed and collected as part of the tax, interest upon such unpaid amount at the rate prescribed in paragraph (a) hereof, from the date prescribed for its payment until it is fully paid.

c. Delinquency interest. In case of failure to pay on the due date appearing in the notice and demand of the Commissioner –

- The amount of tax due for on any return required to be filed, or
- The amount of the tax due for which no return is required, or
- A deficiency tax, or any surcharge or interest thereon, there shall be assessed and the rate prescribed in paragraph (a) hereof until the amount is fully paid which interest shall form part of the tax.

d. Interest on extended payment. If any person required to pay the tax is qualified and elects to pay the tax on installment under the provisions of the Tax Code, but fails to pay the tax or any installment hereof, or any part of such amount or installment on or before the date prescribed for its payment, or where the Commissioner has authorized an extension of time within which to pay a tax or a deficiency tax or any part thereof, there shall be assessed and collected interest at the rate hereinabove prescribed on the tax or deficiency tax or any part thereof unpaid from the date of notice and demand until it is fully paid.

Illustrative Examples:

After audit of the books of accounts of ABC Company, it was ascertained that it was liable to pay deficiency income tax of P100,000.00. The computation of deficiency interest will be as follows:

Case A If the tax payer's accounting period ends December 31, 1989, and

1. The deficiency tax is payable on March 31, 1991 and the MRR as of March 4, 1991 is 30%:

Basic tax due

P100,000.00

Surcharge (25% of P100,000)

25,000.00

Basis of interest computation

P125,000.00

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Deficiency interest

20% per annum from April 16, 1990 P 22,054.80 up to March 3, 1991 (322 days)

[*]130% per annum from March 4, 1991 up to March 31, 1991 (27 days)

2,773.98

Total deficiency interest

P 24,828.78

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2. The deficiency tax is payable on March 31, 1991 and the MRR as of March 4, 1991 is 18%:

Basic tax due

P100,000.00

Surcharge (25% of P100,000.00)

25,000.00

Basis of interest computation

P125,000.00

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Deficiency interest

[**]220% per annum from April 16, 1990 up to March 31, 1991 (349 days)

P 23,904.11

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Case B If the taxpayer's accounting period ends December 31, 1990, and

1. The deficiency tax is payable on October 15, 1990, and MRR as of October 7, 1991 is 25%.

Basic tax due

P100,000.00

Surcharge (25% of P100,000.00)

25,000.00

Basis of interest computation

P125,000.00

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Deficiency interest

[**]220% per annum from April 16, 1990 up to October 15, 1991 (183 days)

P 15,667.81

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2. The deficiency tax is payable on October 15, 1991 and the MRR as of October 7, 1991 is 15%:

Basic tax due

P100,000.00

Surcharge (25% of P100,000.00)

25,000.00

Basis of interest computation

P125,000.00

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Deficiency interest

[**]220% per annum from April 16, 1990 up to October 15, 1991 (183 days)

P 12,534.25

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Case C The deficiency tax on Case B(1) is payable in two installments beginning October 15, 1991 with the following MRR on the first Monday of the installments months

October 7, 1991 25%

November 4, 1991 26%

Basic tax due

P100,000.00

Surcharge (25% of P100,000.00)

25,000.00

Basis of interest computation

P125,000.00

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1. Deficiency interest deficiency tax payable on October 15, 1991

[*]125% per annum from April 16, 1991 up to October 15, 1991 (183 days) on installment payment of P62,500.00

P 7,833.90

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2. Deficiency tax payable on December 15, 1991

[*]126% per annum from April 16, 1991 up to November 15, 1991 (214 days) on installment payment of P62,500.00

P 9,527.40

Deficiency interest

P17,361.00

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Case D Under the same set of facts in Case A(1), if the amount demanded for payment in the assessment notice was not paid on the due date, March 31, 1991, but the deficiency tax was paid on April 30, 1991 and MRR on April 1, 1991 is 27%:

Total amount due on March 31, 1991 per letter of demand

P149,828.78

Surcharge (25% of P149,828.78)

37,457.20

Basis of interest computation

P187,285.98

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Delinquency interest

[*]127% per annum from April 1, 1991 up to April 30, 1991 (30 days)

P 4,156.21

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SECTION 3. Repealing Clause. All regulations, rulings, orders or portions thereof which are inconsistent with the provisions of these regulations are hereby revoked.

SECTION 4. Effectivity. These regulations shall take effect on March 4, 1991.

Adopted: 24 Jan. 1991

(SGD.) JESUS P. ESTANISLAO

Secretary of Finance

(SGD.) JOSE U. ONG

Commissioner of Internal Revenue

[*] 1 MRR is used because it is higher than 20%.

[**] 220% is used because it is higher than the MRR.

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