

LAST PRIORITY IN AUDIT AND INVESTIGATION OF 1988 AND 1989 INCOME TAX VAT AND 2% PERCENTAGE TAX LIABILITIES

BIR REVENUE MEMORANDUM CIRCULAR NO. 75-90, August 15, 1990

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5b3c8cb50bbb/>

SECTION 1. Statement of Policy. It is the policy of the Bureau of Internal Revenue to encourage voluntary disclosure of undeclared taxable base, such as sales, receipts and income. Towards this end, the Bureau of Internal Revenue, under certain conditions prescribed herein, HEREBY extends the privileges of "relative last priority" or "absolute last priority" (hereinafter referred to as the "privilege") to taxpayers who shall come forward and declare their correct liabilities for income tax under Title II, VAT under Title IV and the 2% percentage tax under Section 112 of the Tax Code by filing the "VOLUNTARY DECLARATION FORM". (Please see NAR Vol. 1 No. 3, July-September 1990, pp. 305 & 306)

SECTION 2. Privilege of "relative last priority" and/or "absolute last priority". The income tax, VAT, and two percentage 2% percentage tax returns for the taxable years 1988 and 1989 of any person who avails of the "relative last priority" shall be the last to be subjected to audit and investigation for the said taxable years, except when otherwise authorized by the Commissioner.

The Commissioner, however, shall be very discreet and could refrain from authorizing audit and investigation of said returns, including verification of inventories, if the person qualifies for the privilege of "absolute last priority" for the said years.

A certificate or a card of availment of either privilege shall be issued to any person upon entitlement thereof under the conditions prescribed in this Circular.

SECTION 3. Who may avail of the privilege. Under certain conditions, the privilege may be availed of by any person liable to pay income tax, VAT and/or two percent (2%) percentage tax who, due to inadvertence or otherwise:

- (a) has underdeclared his liabilities for income tax, VAT, and 2% percentage tax for the taxable years 1988 and 1989; or
- (b) has not filed any income tax return and value added tax or 2% tax return for the taxable years 1988 and 1989 and, in either case, has not been issued a letter of authority for the taxable year(s) 1988 and/or 1989 as of August 15, 1990.

Any person who availed of the privilege for the "sympathetic" treatment under Revenue Memorandum Circular Nos. 23-89, 29-89, 36-89 and 44-89 may also avail of the privilege under this Circular provided that he satisfies the conditions prescribed in the preceding paragraphs and Sections 5 & 6 hereof.

For purposes of income and the 2% percentage taxes, the terms "taxable year 1988" means the calendar year 1988 and any fiscal year ending on or before July 31, 1988 and June 30, 1989 and "taxable year 1989" means the calendar year 1989 and any fiscal year ending on or before July 31, 1989 and June 30, 1990.

For purposes of VAT, the term "taxable year" means:

Taxable Year 1988

Group A

Jan. 1, 1988 to Dec. 31, 1988

Group B

Jan. 1, 1988 to Jan. 31, 1989

Group C

Jan. 1, 1988 to Feb. 28, 1989

Taxable Year 1989

Group A

Jan. 1, 1989 to Dec. 31, 1989

Group B

Feb. 1, 1989 to Jan. 31, 1990

Group C

Mar. 1, 1989 to Feb. 28, 1990

The availment of the privilege under this Circular shall be strongly recommended as a condition to qualify for any legislative general tax amnesty which the government may grant in the future.

SECTION 4. Cases not covered. Notwithstanding the availment of the privilege granted under this Circular, the following cases are not covered by the privilege:

- (a) Verification to obtain information relevant to the tax liability of another person pursuant to Section 7 of the Tax Code;
- (b) Verification to obtain information pursuant to a request of a Competent Authority under the Exchange of Information Article of tax entered into by the Philippines with other countries;
- (c) Request for refund of any taxes paid or application for issuance of tax credit memo or certificate;

- (d) Determination of correct withholding tax liability of withholding agents;
- (e) No-contract surveillance for the purpose of determining tax compliance requirements;
- (f) Internal revenue taxes, other than income tax, VAT and 2% tax;
- (g) Persons who are being investigated by the Presidential Commission on Good Government pursuant to Executive Order Nos. 1, 2 and 14.
- (h) Persons under investigation as a result of verified information filed by informer under Section 281 of the Tax Code and duly recorded in the official registry book of the Bureau of Internal Revenue as of August 15, 1990;
- (i) persons who were issued L/As on or before August 15, 1990.

SECTION 5. Conditions for the enjoyment of the privilege. In order to qualify for the privilege, the taxpayer shall

(a) file a:

(i)

"Voluntary Declaration" Form which will serve as an amended return and pay the deficiency income tax, VAT, and, 2% percentage tax (hereinafter referred to as "deficiency taxes") for both taxable years 1988 and 1989 determined in accordance with Section 6 of this Circular. The amount of undeclared inventory as of the end of the taxable years 1988 (to be shown in Line 3) and 1989 (to be shown in Line 13) must not be less than P1,000,000 for each year; and,

(ii)

Sworn declaration of inventory (Annex "B"- Please see NAR Vol. 1 No. 3, July-September 1990, page 306) declaring his correct inventory of goods (whether subject to or exempt from VAT) as of the end of the taxable years 1988 and 1989. Such sworn declaration shall be attached to and filed with Annex "A" and should show, among others, the following information: quantity, brief description of the article, unit cost, and amount. Articles of the same general description and of small values may be reflected in the inventory as a lot,

(b) comply with the bookkeeping law and requirements by:

(i)

keeping accurate accounting records and

(ii)

issuing sales invoices and receipts in accordance with Section 238 of the Tax Code

after the availment of the privilege under this Circular. Non-compliance with this condition shall result in the forfeiture of the privilege.

SECTION 6. Determination of the deficiency taxes –

(a) Amount to be paid for "relative last priority" — The amount of deficiency taxes to be paid for purposes of availing of the privilege of last priority in audit and investigation shall be the highest of the amounts determined under the following factors:

(i)

Inventory factor Deficiency taxes arising from undeclared sales, receipts or gross profit/income on the basis of

undeclared inventories reported in the VOLUNTARY DECLARATION FORM.

(ii)

Taxes due per return factor Five hundred percent (500%) of the sum of the (a) total income tax for 1988 and 1989; and (b) total VAT (net of input taxes) and total 2 (%) percentage tax for 1988 and 1989 due per return before credits for withholding tax, quarterly corporate tax, tax credits memos and certificates. However, this factor shall not be applied if the deficiency tax per inventory factor amounts to P4 million or more or if the taxpayer avails of the absolute last priority.

(iii)

Minimum tax factor. The minimum amount of tax payable for both years shall not be less than P300,000.

(b) Amount to be paid for "absolute last priority". If the total deficiency tax paid under paragraph (a) of this Section amounts to at least P4 million for the taxable years 1988 and 1989, the taxpayer shall be entitled to the privilege of "absolute last priority". However, if the amount computed under paragraph (a) is less than 4 million, the taxpayer may avail of the privilege of "absolute last priority" if he pays a deficiency tax amounting to at least P4 million for both taxable years 1988 and 1989.

(c) Credit for amount previously paid for "sympathetic treatment". The additional amount paid for availment of "sympathetic treatment" under Revenue Memorandum Circular Nos. 23-89, 29-89, 36-89 and 44-89 granting the privilege of last priority in audit for 1988 shall be credited against the amount determined as payable under paragraphs (a) or (b) of this Section.

SECTION 7. Effect of Availment Of The Privilege On Ongoing Enforcement Operations. Upon payment of the deficiency taxes determined in Section 6 of this Circular, (a) any inventory verification and contract surveillance operations on the taxpayer shall be suspended but may be resumed after October 31, 1990 only upon order of the Commissioner; and (b) subject to the provisions of Section 4 hereof, any audit and investigation pursuant to a letter of authority issued after August 15, 1990 shall be withdrawn.

SECTION 8. Nondeductibility of deficiency VAT — The deficiency value added tax determined and paid under the VOLUNTARY DECLARATION FORM shall not be deductible for income tax purposes and not creditable for VAT purposes by the person availing of this privilege.

SECTION 9. When And Where To File Declaration And Pay Deficiency Taxes. — The voluntary declaration form (Annex "A"), sworn declaration of inventory (Annex "B") and attachments thereto shall be filed with, and the corresponding deficiency taxes paid, not later than October 31, 1990 or the date prescribed in Section 10, for installment payments, to the appropriate revenue officer authorized to receive tax returns and internal revenue tax payments under Sections 44, 45 and 110 of the Tax Code, as amended.

SECTION 10. Payment Of Deficiency Tax In Installments. — If the deficiency tax amounts to P10 million or less, the same shall be paid upon filing of the VOLUNTARY DECLARATION FORM.

If the amount of the deficiency tax exceeds P10 million but does not exceed P20 million, the same may be paid in two equal installments, the first installment upon filing of the Voluntary Declaration Form and the second, installment not later than November 30, 1990; and, the third installment not later than December 31, 1990.

If the amount of deficiency tax exceeds P20 Million, the same way be paid in three equal installment — the first installment, upon filing of the VOLUNTARY DECLARATION FORM; the second installment not later than November 30 1990; and, the third installment not later than December 31, 1990.

SECTION 11. Adjustment Of Books Of Accounts. — The correct inventory declared as of the end of the taxable year 1989 (shown in Line 7, VOLUNTARY DECLARATION FORM) shall be reflected as the inventory as of the beginning of taxable year 1990 and, correspondingly, the taxpayer shall record this in his books of accounts or financial statements.

SECTION 12. Date Of Effectivity. — This Circular shall take effect on August 15, 1990 and shall expire on October 31, 1990 and the same shall be given the widest publicity possible.

Adopted: 3 Aug. 1990

(Sgd.) JOSE U. ONG

Commissioner of Internal Revenue

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.