

PRESCRIBING THE GUIDELINES FOR REPUBLIC ACT NO. 7498 GRANTING TAX AMNESTY TO PERSONS REPATRIATING THEIR FOREIGN CURRENCIES AND/OR SECURITIES TO THE PHILIPPINES.

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SECTION 1. Scope — Pursuant to Section 245 of the National Internal Revenue Code (NIRC) and Republic Act (RA) No. 7498, these regulations are hereby promulgated prescribing the guidelines for availing of the tax amnesty by persons repatriating their foreign currencies and/or currencies and/or securities to the Philippines.

SECTION 2. Who may avail of the amnesty — Any person not falling under the exceptions provided in Section 3 of these Regulations, may avail of the tax amnesty herein provided. This include any natural or juridical person.

SECTION 3. Who may not avail of the amnesty — The following persons shall not be qualified to avail of the tax amnesty:

- Those with income tax cases already filed in courts as of the effectivity of RA No. 7498, which is determined to be on July 30, 1992;
- Those with criminal cases involving violations of the income tax law already file in court as of July 30, 1992;
- Those who have withholding tax liabilities under the NIRC, as amended, insofar as the said liabilities are concerned;
- Those with pending cases involving unexplained or unlawfully acquired wealth before the Sandiganbayan;
- Those liable under Title VII, Chapter III (Frauds, Illegal Exactions and Transactions) and Chapter IV (Malversation of Public Funds and Property) of the Revised Penal Code, as amended; and
- Those with pending cases involving unexplained or unlawfully acquired wealth falling under the jurisdiction of the Philippine Commission on Good Government.

SECTION 3. Period of Availment — The tax amnesty herein provided shall be availed of by any person within eight months from date of promulgation of these rules and regulations by the Secretary of Finance. For this purpose, this period shall be deemed to end on March 31, 1994.

SECTION 4. Filing of amnesty tax return — Persons availing of this amnesty shall file the tax amnesty return as prescribed in Annex A* of these Regulations and submit this, together with the documents enumerated in Section 7 of these Regulations not later than March 31, 1994.

Married individuals who are not legally separated shall file a joint return. However, where it is impracticable for the spouses to file one consolidated return, each spouse may file his/her separate tax amnesty return.

If the taxpayer is unable to prepare his own return, the same can be accomplished by his duly authorized agent or any person charged with care of his person or property.

Parents or guardian shall file the amnesty return for their minor or incapacitated children or dependents.

The administrator, executor or trustee shall file the return for the estate or trust.

Any responsible and authorized corporate officer or partner shall file the return for the corporation or partnership, respectively.

SECTION 5. Where to file the return — Persons who are residents of the Philippines shall file their amnesty tax returns with the Office of the Regional Director having jurisdiction over their place of residence or business.

Persons who are not residents of the Philippines, shall file their return with the nearest Philippine Embassy or Consulate abroad or with the Office of the Commissioner of Internal Revenue.

SECTION 6. Computation of amnesty tax — (a) The amount of amnesty tax to be paid shall be the equivalent of ten percent (10%) of the amount of foreign currencies and/or securities repatriated to the Philippines.

(b) For this purpose foreign currencies refer to currencies of foreign countries acceptable in the Philippine banking system and "securities" refer to shares of stocks issued by foreign corporations and/or bonds, debentures or other forms of indebtedness issued by foreign creditors.

(c) Repatriation of these currencies and/or securities to the Philippines refer to the inward remittance of these currencies to the Philippines and which is accounted for in accordance with the rules and regulations of the Central Bank of the Philippines (CB) and the registration of these securities with the CB in accordance with its rules and regulations. This repatriation shall have been concluded or completed not later than March 31, 1994.

(d) The amount of foreign currencies and/or securities that are declared to be repatriated shall be converted to its peso equivalent using the prevailing interbank reference rate at time of filing of the amnesty tax return. This peso equivalent shall be the basis for the 10% amnesty tax on the undeclared income which is deemed to be the source of the repatriated currencies/securities and the valuation of these currencies/securities to be reported in the statement of assets and liabilities prescribed in Section B of these Regulations.

SECTION 7. Payment of amnesty tax — The amnesty tax herein imposed shall be paid within two months from the filing of the amnesty tax return as prescribed in Section 5 of these Regulations. This shall be paid in the same receiving office where the amnesty tax return has been filed.

If the amnesty tax is not paid within the prescribed period, a surcharge equivalent to twenty-five percent (25%) of the unpaid amount, together with the tax, shall be paid within one month after the prescribed due date for payment of such tax. Failure to pay these amounts shall result in the denial of the application for tax amnesty.

SECTION 8 Documents to be attached to the amnesty tax return — The following documents shall be attached to the amnesty tax return to be filed:

1. Duly notarized sworn statement declaring the amount of foreign exchange and/or securities repatriated and that the amount so declared does not include current earnings or income otherwise taxable under the NIRC.
2. Statement of assets and liabilities reflecting as part of the assets the amount of currencies and securities declared to be repatriated as prescribed in ANNEX B*of these Regulations.
3. Certification of inward remittance of the foreign currencies and/or registration of securities from the Central Bank or any authorized Philippine bank.
4. Any other documents required by the Central Bank.

SECTION 9. Immunities and privileges — Upon full compliance with the conditions of the tax amnesty, the taxpayer shall enjoy the following immunities and privileges:

1. The taxpayer shall be relieved of any civil, criminal or administrative liabilities arising from or incident to the availment of the tax amnesty as herein granted, which are actionable under the NIRC, the revised Penal Code, the Anti-graft and Corrupt Practices Act, the revised Administrative Code, the Civil Service laws and regulations on immigration and deportation, or any other applicable law; and,
2. The taxpayer's tax amnesty declaration shall not be admissible in evidence in all proceedings before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and the same shall not be examined, inquired or looked into by any person, government official, bureau or office.

These immunities and privileges as applied to the tax aspect refer to the taxpayer's immunity from any civil, criminal or administrative liabilities arising from the non-declaration of the particular income deemed to be the source of the currencies/securities repatriated and the failure to pay the corresponding internal revenue taxes due thereon. However, this does not include immunity from penalties for violation of the NIRC provisions as this pertain to the other income/receipts or deductions claimed in any tax return filed or for non-declaration of other sources of income or receipts. The examination of the taxpayer's books and records can still be conducted by the Bureau of Internal Revenue for this particular purpose.

SECTION 10. Unlawful Divulgence of Amnesty Tax Declaration — It shall be unlawful for any person having knowledge of such statement/payment to disclose any information relative hereto and violation hereof shall subject the offender to imprisonment of not more than five years and/or fine of not more than five thousand pesos (P5,000.00).

Any officer or employee of the Bureau of Internal Revenue or any government entity who inquiries, questions or attempts to inquire into the tax amnesty declaration filed by any taxpayer shall be guilty of grave misconduct for which he may summarily be dismissed from the service.

SECTION 11. Disposition of tax amnesty Returns and Tax Payments — After the tax shall have been paid, the tax amnesty returns and all its attachments shall be kept confidential by the Bureau of Internal Revenue. The provisions of the NIRC, prescribing the manner of the disposition of income tax returns and publication of list of persons filing return shall not apply to the aforesaid tax amnesty returns.

SECTION 12. Effectivity — These regulations shall take effect fifteen days upon publication in a newspaper of general circulation.

Adopted: 23 June 1993

(Sgd.) ROMEO L. BERNARDO

Undersecretary of Finance Officer-in-Charge

Recommending Approval:

(Sgd.) LIWAYWAY VINZONS-CHATO

Commissioner of Internal Revenue

*Text available upon request at the Office of the National Administrative Register (ONAR), U.P. Law Center, Diliman, Quezon City.

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