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IMPLEMENTING SECTIONS 7(C), 204(A) AND 290 OF THE TAX CODE OF 1997 ON COMPROMISE SETTLEMENT OF INTERNAL REVENUE TAX LIABILITIES

BIR REGULATIONS NO. 6-2000, September 05, 2000

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SECTION 1. Scope and Objectives . — Pursuant to Section 244 of the Tax Code of 1997, these Regulations are hereby promulgated for the purpose of implementing Sections 7(c), 204(A) and 290 of the same Code, thereby giving an authority to the Commissioner of Internal Revenue to compromise the payment of internal revenue tax liabilities of certain taxpayers with outstanding receivable accounts and disputed assessments with the Bureau.

SECTION 2. Cases Which May be Compromised. —

The following cases may, upon taxpayer's compliance with the basis set forth under Section 3 of these Regulations, be the subject matter of compromise settlement, viz:

1. Delinquent accounts;
2. Cases under administrative protest pending in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Enforcement Service (ES), Excise Taxpayer Service (ETS) and Collection Service;
3. Civil tax cases being disputed before the courts, e.g, CTA, CA, SC;
4. Collection cases filed in courts; and
5. Criminal violations, other than those already filed in court, or those involving criminal tax fraud.

EXCEPTIONS:

1. Withholding tax cases;
2. Criminal tax fraud cases;
3. Criminal violations already filed in court; and
4. Delinquent accounts with duly approved schedule of installment payments.

SECTION 3. Basis for Acceptance of Compromise Settlement. —

The Commissioner may compromise the payment of any internal revenue tax on the following grounds:

1. Doubtful validity of the assessment . — The offer to compromise a delinquent account or disputed assessment under these Regulations on the ground of reasonable doubt as to the validity of the assessment may be accepted when it is shown that:

(a) The delinquent account or disputed assessment is one resulting from a jeopardy assessment (For this purpose, " jeopardy assessment" shall refer to a delinquency tax assessment which was assessed without the benefit of complete or partial audit by an authorized revenue officer, who has reason to believe that the assessment and collection of a deficiency tax will be jeopardized by delay because of the taxpayer's failure to comply with the audit and investigation requirements to present his books of accounts and/or pertinent records, or to substantiate all or any of the deductions, exemptions, or credits claimed in his return); or

(b) The assessment seems to be arbitrary in nature, appearing to be based on presumptions and there is reason

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to believe that it is lacking in legal and/or factual basis; or

(c) The taxpayer failed to file an administrative protest on account of the alleged failure to receive notice of assessment or preliminary assessment and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(d) The taxpayer failed to file a request for reinvestigation/reconsideration within 30 days from receipt of final assessment notice and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(e) The taxpayer failed to elevate to the Court of Tax Appeals (CTA) an adverse decision of the Commissioner, or his authorized representative, in some cases, within 30 days from receipt thereof and there is reason to believe that the assessment is lacking in legal and/or factual basis; or

(f) The assessments were issued on or after January 1, 1998, where the demand notice allegedly failed to comply with the formalities prescribed under Sec. 228 of the Tax Code,

2. Financial Incapacity . — The offer to compromise based on financial incapacity may be accepted upon showing that:

(a) The inability to pay is evident as when the audited Balance Sheet for the taxable year preceding the year when the offer is made shows a capital deficit of at least 5% or the Balance Sheet reflects a negative networth of at least 5%; or
(b) The taxpayer is declared by competent court to be bankrupt or insolvent; or
(c) The taxpayer has already been dissolved; or
(d) The taxpayer is a compensation income earner with no other source of income and the family's gross annual income does not exceed P250,000, it appearing that taxpayer possesses no other leviable/distrainable assets.

Circumstances that would place the taxpayer applicant's inability to pay in serious doubt can be a ground to refuse the offer of compromise based on financial incapacity to pay. Furthermore, application for compromise settlement by reason of financial incapacity shall not be considered unless and until the taxpayer waives in writing his privilege of the secrecy of bank deposits under Republic Act No. 1405 or under other general or special laws, and such waiver shall constitute the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

SEC. 4. Prescribed Minimum Percentages of Compromise Settlement. — The compromise settlement of the subject internal revenue tax liabilities of taxpayers, reckoned on a per tax type assessment basis, shall be subject to the following minimum rates:

1. For cases of financial incapacity — a minimum compromise rate equivalent to ten percent (10%) of the basic assessed tax;

2. For doubtful validity — a minimum compromise rate equivalent to forty percent (40%) of the basic assessed tax.

Delinquent accounts and disputed assessments of taxpayers registered under the Large Taxpayers Service (LTS) and the Excise Taxpayers Service (ETS) shall not be compromised for less than fifty percent (50%) of the basic assessed tax. Any offer of compromise lower than fifty percent (50%) by said taxpayers shall be subject to the approval of the NEB.

The herein prescribed minimum percentages shall likewise apply in compromise settlement of assessments consisting solely of increments, i.e., surcharge, interest, etc., based on the total amount assessed.

SECTION 5. Creation of the National Evaluation Board and Regional Evaluation Board . — A National Evaluation Board in the National Office and a Regional Evaluation Board in each Revenue Region all over the country are

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hereby created to evaluate and approve/disapprove the applications for settlement of each delinquent account/disputed assessment, the composition of such Boards and the cases under their respective jurisdictions are as follows:

A. National Evaluation Board (NEB)

Commissioner of Internal Revenue Chairman

Four (4) Deputy Commissioners Members

Where the basic assessed tax involved exceeds One million pesos (P1,000,000.00) or where the settlement offered is less than the prescribed minimum rates of 40% (in cases of doubtful validity), 10% (in cases of financial incapacity), and 50% (in cases of taxpayers registered under LTS and ETS) of the basic tax, the compromise shall be subject to the approval by the NEB.

For compromise offers on delinquent accounts and disputed assessments where the assessment notices were issued by the Regional Offices and the basic assessed tax exceeds Five hundred thousand pesos (P500,000.00) but not over One million pesos (P1,000,000.00), or for assessments issued by the National Office where the basic assessed tax does not exceed One million pesos (P1,000,000.00), the compromise offer, after evaluation by the Technical Working Group (TWG), shall be approved by the Commissioner.

B. Regional Evaluation Board (REB)

Regional Director Chairman

Members:

- Assistant Regional Director

- Chief, Legal Division

- Chief, Assessment Division

- Chief, Collection Division

- Revenue District Officer having jurisdiction over the taxpayer-applicant

The REB may compromise assessments issued by the regional offices involving basic assessed taxes of Five Hundred Thousand Pesos (P500,000.00) or less and minor criminal violations discovered by the Regional and District Officials.

The evaluation of offers of compromise shall, in all cases, be conducted by a Technical Working Group (TWG), in the National and Regional levels, respectively, to be constituted for the purpose through the issuance of a Revenue Special Order (RSO).

The NEB and the REBs of the Revenue Regions shall each create a SECRETARIAT to handle the administrative functions of their respective TWGs.

SECTION 6. Report of the Commissioner on the Exercise of his Authority to Compromise to the Congressional Oversight Committee. — The Commissioner shall submit to the .Congressional Oversight Committee through the Chairmen of the Committee on Ways and Means of both the Senate and House of Representatives, every six (6) months of each calendar year, a report on the exercise of his powers to compromise the tax liabilities of taxpayers,

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SECTION 7. Repealing Clause . — All existing rules and regulations or parts thereof which are contrary to or inconsistent with the provisions of these Regulations are hereby amended, modified or repealed accordingly.

SECTION 8. Effectivity . — The provisions of these Regulations shall take effect fifteen (15) days after publication in any newspaper of general circulation.

Adopted: 05 Sept. 2000

(SGD.) JOSE T. PARDO
Secretary of Finance

Recommending Approval:

(SGD.) DAKILA B. FONACIER
Commissioner

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