AMENDING REVENUE REGULATIONS NO. 11-2006 ON THE ACCREDITATION OF TAX PRACTITIONERS/AGENTS AS A PREREQUISITE TO THEIR PRACTICE OR REPRESENTATION BEFORE THE BUREAU OF INTERNAL REV...

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Pursuant to the provisions of Sections 6(G), 244 and 275 of the National Internal Revenue Code of 1997, as amended, these Regulations are hereby promulgated to amend portions of Revenue Regulations No. 11-2006 pertaining to the accreditation procedures of tax practitioners/agents.

Section 1. Objectives - These Regulations are being issued to (1) prescribe additional guidelines in the accreditation of tax agents and practitioners (TAPs) to shorten the processing time; (2) ensure the continuing professional education and training of TAPs from duly accredited service providers; (3) implement a transparent and accessible database of accredited, suspended and delisted TAPs; (4) require the annual submission of schedule of services provided by the TAPs; (5) specify specific penalties and sanctions for violation of the provisions of these Regulations; and, (6) prescribe the payment of the annual registration fee for each TAP.

Section 2. Definition of Terms – Paragraphs c and d of Section 2 of RR No. 11-2006 is hereby amended to read as follows:

> “SECTION 2. Definition of Terms-
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> xxx xxx xxx
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> c. Revenue National Accreditation Board (RNAB) – As first constituted under Revenue Regulations (RR) No. 15-99, RNAB refers to the body in the BIR National Office constituted to accredit tax practitioners/agents who are regularly engaged in making representation for or on behalf of a client/s before any BIR Office. It is composed of an Assistant Commissioner from either the Operations Group, Legal and Inspection Group or Large Taxpayers Service chosen by the Commissioner of Internal Revenue as Chairman, one (1) representative from the private sector to be chosen by the Commissioner of Internal Revenue from the nominees submitted by the Philippine Chamber of Commerce and Industry (PCCI), or by the Philippine Institute of Certified Public Accountants (PICPA), or by the Tax Management Association of the Philippines (TMAP); and three (3) senior internal revenue officials in the National Office with the rank of at least Division Chief, coming from the aforementioned Group/Service, to be designated by the Commissioner. This Board shall have original and exclusive authority to accept applications for accreditation of TAPs belonging to General Professional Partnerships (GPPs) or incorporated entities engaged in accounting and tax consultancy provided that the number of practicing TAPs belonging to said GPP or incorporated entity shall exceed ten (10).
>
> d. Revenue Regional Accreditation Board (RRAB) – Also constituted under RR 15-99, the RRAB is the body in the BIR Regional Office constituted to accredit tax practioners/agents who are regularly engaged in making representation for or on behalf of a client/s before any BIR Officer. It is composed of the BIR Assistant Regional Director as Chairman, one (1) representative from the private sector to be chosen by the Commissioner of Internal Revenue from the nominees of the local PICPA chapter; and three (3) senior internal revenue officials in the Regional Office with the rank of Assistant Division Chief or higher to be designated by the Commissioner. In the Absence of the Assistant Regional Director, the Regional Director shall act as the

Chairman. This Board shall have original and exclusive authority to accept applications for accreditation of individual TAPs and those belonging to GPPs or incorporated entities engaged in accounting and tax consultancy provided that the number of practicing TAPs belonging to such GPP or incorporated entity does not exceed ten (10)."

Section 3. The Accreditation Boards – Section 3 of RR No. 11-2006 is hereby amended to read as follows:

"SECTION 3. The Accreditation Boards

A. Powers and Functions – It shall be the duty of the Accreditation Boards to act upon all applications to practice before the Bureau of Internal Revenue, to institute and provide for the conduct of accreditation, suspension or dis-accreditation proceedings and to perform such other duties as are necessary or appropriate to carry out their functions as prescribed by the Secretary of Finance, Provided, that any action or decision of the RRAB and RNAB shall be final and appealable only to the Commissioner.

B. Jurisdiction – The RRAB and RNAB shall have jurisdiction over and shall require accreditation with the BIR of the following persons:

xxx xxx xxx

d). xxx xxx xxx

Individual applicants , GPPs and partners of GPPs who were already accredited with the BOA and SEC shall similarly be required to undergo the various processes for accreditation under these Regulations and shall no longer be automatically accredited and issue a BIR Certificate of Accreditation.

B.1 Exceptions. xxx xxxx

C. Term of Office of the Chairmen and Members of the RNAB and RRAB – xxx.

Section 4. Minimum Qualification of Applicants. – Section 4 of RR No. 11-2006 is hereby amended to read as follows:

"SECTION 4. Minimum Qualifications of Applicants – xxx

A. For Individual Tax Agents:

1. xxx xxx xxx

6. He must have completed the minimum number of hours of continuing professional education (CPE) from BIR-accredited CPE providers for each year he practices with the BIR.

Section 5. Accreditation Procedures. – Section 5 of RR No. 11-2006 is hereby amended to read as follows:

"A. Where to File – All applicants shall file their application for accreditation in the form to be prescribed by the Commissioner of Internal Revenue. The duly accomplished application form shall be submitted together with all documentary requirements prescribed in item B(1) or (2) of this Section, with the RRAB or RNAB of the place where the individual applicant or general professional partnership has his/its principal residence or place of business, whichever is applicable.

B. Documentary Requirements – Applicants shall submit, together with their duly accomplished application forms, the following documents:

1. For Individual Applicants:

xxx xxx xxx

d. Proof of special competence in tax matters or tax practice, to wit:

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d.1 Certificate of Employment (i.e meaningful experience in tax related work;
d.2 Written certification of continuing professional education (CPE) units from BIR-accredited CPE providers, with complete details on the course, dates and number of CPE hours taken by the TAP. For this purpose, the BIR shall prescribe the guidelines for the accreditation of and conduct of training by the CPE providers.

Pending the issuance of the guidelines by the BIR for the accreditation of CPE providers, the applicant shall only comply with the requirements prescribed in (a) to (c) and (d.1)

e. A written undertaking under oath to preserve working papers within the period prescribed under Section 235 of the NIRC of 1997, as amended, and making them available to the Bureau's authorized representative/s when required or directed to do so.

2. For Partners, Directors, Officers or duly authorized representatives of General Professional Partnerships and incorporated entities engaged in accounting and tax consultancy:

xxx xxx xxx

c. For those Partners, Directors, Officers or duly authorized representatives of General Professional Partnerships duly registered with the SEC, in addition to the above documentary requirements, a certification from the BOA if the said Partner, Director, Officer or duly authorized representative is a CPA.

d. xxx xxx xxx

e. A written undertaking under oath by the managing partner/director that the firm/entity shall fully cooperate with the Bureau by preserving its working papers within the period prescribed under Section 235 of the NIRC of 1997, as amended, and making them available to the Bureau's authorized representative/s when required or directed to do so.

C. Processing fee. Each applicant shall pay a non-refundable fee of One Thousand Pesos (P1,000) upon his filing of application for accreditation. If the applicant is a general professional partnership, the fee shall be paid for each partner/s and any other authorized representative/s thereof. In the case of incorporated entities engaged in the accounting and tax consultancy services, the fee shall be paid by each of the applicant officer/s or designated representative/s thereof.

D. Additional Requirements – xxx xxx xxx

E. Submission of annual information – All accredited TAPs shall submit to the RRAB/RNAB on or before the last day of payment of annual registration fee, the following:

a. A list of the engagement dealing with any of the BIR Offices for the prior year; and
b. A list of the CPE hours earned by the accredited tax agents/practitioners for the previous year.

Section 6. Processing of Application for Accreditation. Section 6 of RR No. 11-2006 is hereby amended to read as follows:

A. The RRAB shall process the application/s and issue the certificate/s of accreditation of individuals, GPPs and incorporated entities with TAPs of 10 or less persons, while the RNAB shall process the application/s and approve the certificate/s of accreditation for individuals, GPPs and incorporated entities with TAPs of 11 or more persons. In cases where the individuals, GPPs and incorporated entities had previously accredited 10 or less TAPs and shall subsequently apply for accreditation of additional TAPs exceeding the 10 person threshold, said application shall be filed with the RNAB which shall process the application/s and issue the certification/s of accreditation.

B. The RRAB and RNAB shall act upon all applications for accreditation by verifying the qualifications of an applicant, and the completeness of the required documentation. If an application is determined to be complete,

that is, all necessary supporting documentations have been submitted, and the applicant's qualifications found to be in conformity with the provisions of Section 4 of these Regulations, the application shall be stamped "RECEIVED" bearing the date the completed application was received by the RRAB/RNAB.

C. In all cases, the RRAB/RNAB shall have the exclusive authority to approve/disapprove applications for accreditation falling within their respective jurisdiction which shall be acted upon within thirty (30) days from receipt of the complete application.

D. Applicants whose applications for accreditation have been approved by the RRAB/ RNAB shall be issued a Certificate of Accreditation signed by their respective Chairman. Such Certificate shall be valid for a period of three (3) years from the date of issue, unless sooner revoked for cause. For purposes of easy identification, the Commissioner of Internal Revenue shall issue an identification card to each accredited tax agent or practitioner.

E. Application for accreditation which has been disapproved by the RRAB/RNAB may be appealed to the Commissioner. An adverse decision by the Commissioner may be appealed to the Secretary of Finance, who shall rule on the appeal within sixty (60) days from receipt of such appeal. Failure of the Secretary of Finance to rule on the appeal within the prescribed period shall be deemed as approval of the application for accreditation of the appellant.

F. The resignation, retirement, death or incapacity of any partner of a general professional partnership who has been accredited by the RRAB/RNAB shall not result in the cancellation of the partnership's accreditation but only that of the concerned partner's accreditation. The partnership, however, must notify the RNAB, or the RRAB having jurisdiction over the partnership's principal place of business, of such occurrence and shall surrender to the RNAB/RRAB the concerned partner's Certificate of Registration or Identification Card for cancellation."

Section 7. Suspension or Cancellation of Certificate of Accreditation - Paragraphs A, B, and C of Section 8 of RR 11-2006 is hereby amended to read as follows:

"SECTION 8. Suspension or Cancellation of Certificate of Accreditation-

A. Causes for Suspension, Cancellation or Revocation – xxx

1. xxx xxx xxx

10. Giving a false opinion, knowingly, recklessly or through gross incompetence, including an opinion which is intentionally or recklessly misleading, or a pattern of providing incompetent opinions on questions arising under the Tax Code. False opinion includes those which reflect or result from a known misstatement of fact or law; from an assertion of a position known to be unwarranted under existing laws or regulations; from advising or assisting in conduct known to be illegal or fraudulent; from concealment of matters, required by law or regulations to be revealed. For purposes of this paragraph, "reckless conduct" is a highly unreasonable omission or misrepresentation involving an extreme departure from the standards of ordinary care that a practitioner should observe under the circumstances arising from non-compliance by the taxpayer-client with existing provisions of the Tax Code, its rules and regulations, including financial accounting standards and tax accounting rules, "Reckless conduct" on the part of the tax agent/practitioner shall be presumed when there is substantial underdeclaration of client-taxpayer's taxable sales, receipts or income, or a substantial overstatement of its deductions as defined under Section 248 of the NIRC as amended, and such discrepancy is discovered by the Bureau in the conduct of its enforcement activities. A pattern of conduct is a factor that will be taken into account in determining whether a practitioner acted knowingly, recklessly, or through gross incompetence;

11. Failure to comply with the completion of the CPE; and

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12. Consistent failure to indicate the BIR accreditation number in the documents filed with the BIR.

B. Filing of Petitions for Disaccreditation/Suspension

1. A Petition for Disaccreditation/Suspension of an Accredited Tax Agent may be filed with the RRAB or RNAB having jurisdiction over the residence or principal place of business of the accredited tax agent against whom the Petition is being filed.

2. xxx xxx xxx

3. xxx xxx xxx

4. Petitions found to have been filed by fictitious persons or organizations, upon verification by the RRAB or RNAB concerned, shall be dismissed for lack of factual or legal bases.

C. Administrative Proceedings

1. xxx xxx xxx

2. The RRAB or RNAB with whom a Petition for Disaccreditation/Suspension was filed shall conduct hearing(s) on such Petition, to allow both the Petitioner and the Accredited Tax Agent concerned to present their side of the case.

3. In the conduct of hearings, a quorum is sufficient to convene the RRAB or RNAB

4. Upon termination of the hearing, the RRAB or RNAB shall decide by a majority vote of the members present and voting, whether to grant or deny the Petition.

5. In cases of disaccreditation or suspension, the RRAB or RNAB shall issue to the Tax Agent concerned a Notice of Disaccreditation/Suspension signed by its Chairman. A Copy of Such Notice shall be sent to the Petitioner.

6. In the event that a Petition for Disaccreditation/Suspension is denied, the RRAB or RNAB shall inform both parties of such decision, in an official communication signed by its Chairman."

D. Appeal-

xxx xxx xxx

Section 8. Effects of Accreditation. Section 9 of RR No.11-2006 is hereby amended to read as follows:

"SECTION 9. Effects of Accreditation- Only those Tax Agents/Practitioners, Partners or Officers of General Professional Partnerships, or Officers or Directors of corporate entities engaged in tax practice who have been issued Certificate of Accreditation or ID card shall be allowed to represent a taxpayer or transact-business with the Bureau of Internal Revenue in representation of a taxpayer for the purpose(s) defined in these Regulations. The BIR can refuse to transact official business with tax practitioners who are not accredited before it and shall require that certain official statements such as returns, financial statements, reports, protest, requests for ruling, official correspondence and other statements, papers or documents filed on behalf of a taxpayer be signed or certified to by accredited persons which shall bear the following information below the signature of the latter:

A. For individuals (CPA's Members of GPPs, and others)
a.1 Taxpayer Identification Number (TIN); and
a.2 Certification of Accreditation Number, Date of Issuance, and Date of Expiry

B. For members of the Philippine Bar:

a.1 Taxpayer Identification Number (TIN);

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a.2 Attorney's Roll Number; and
a.3 Mandatory Continuing Legal Education (MCLE) Compliance Number.

None of the provisions of these Regulations shall be construed to authorize non CPAs who are granted 'accredited tax agent' status by virtue of these Regulations to sign the financial statements' Auditor's Certificate even if the same were for BIR purposes only.

All accredited Tax Agents/Practitioners shall be included in a Master List of Accredited Tax Agents/Practitioners which shall be kept up-to-date by the RNAB. The RNAB shall likewise keep an up-to-date Master List of all suspended/ disaccredited Tax Agents/ Practitioners. This Master List shall be posted in the BIR website and/or shall be published in a newspaper of general circulation in order that this list shall be readily available for reference by the public."

Section 9. Renewal of Accreditation – Section 10 of RR No. 11-2006 is hereby amended to read as follows:

"Section 10. Renewal of Accreditation. Within 60 days prior to the expiration of the accreditation, Tax Agents/Practitioners as defined under Section 2 (e) hereof may apply for renewal of their accreditation."

Section 10. Registration – A new section entitled Section 11 on the registration shall be inserted to read as follows:

"Section 11. Registration of Tax Agents and Practitioners. – All accredited TAPs, whether engaged in individual practice, or belonging to GPPs or incorporated entities engaged in accounting and tax consultancy, including lawyers engaged in tax practice before the BIR, shall pay the registration fee of Five Hundred Pesos (P500.00) in the Revenue District Office (RDO) having jurisdiction over the principal place of business of the individual practitioner, GPP or incorporated entity on or before January 31 of each year.

Section 11. Transitory Provisions. – A new section entitled Section 12 on the transitory provisions shall be inserted to read as follows:

"Section 12. Transitory Provisions.–All currently accredited TAPs,whether engaged in individual practice, or belonging to GPPs or incorporated entities engaged in accounting and tax consultancy, including lawyers engaged in tax practice before the BIR, shall pay the registration fee of Five Hundred Pesos (P500.00) not later than March 15, 2010.

TAPs who have previously been accredited but whose accreditation has expired, or those TAPs who have not filed their applications but have been practicing with the BIR are required to file their application for accreditation not later than March 15, 2010."

Section 12. Sanctions. – A new section entitled Section 13 on sanctions shall be inserted to read as follows:

"Section 13. Sanctions. Any TAP who violates any provision of Revenue Regulations No. 11-2006 or this Regulation shall, upon conviction for each act or omission, be punished by fine of One Thousand Pesos (P1,000.00) or suffer imprisonment of not more than six (6) months, or both"

Section 13. Repealing Clause. – All rules and regulations or any part thereof inconsistent with the provisions of these Regulations are hereby amended or repealed accordingly.

Section 14. Effectivity.- These Regulations shall take effect fifteen (15) days after publication in the official gazette or in a newspaper of general circulation.

Adopted: 24 February 2010

(SGD.) MARGARITO B. TEVES

Secretary of Finance

Recommending Approval:

(SGD.) JOEL L. TAN-TORRES
Commissioner of Internal Revenue

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