

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 11, 2002

REVENUE REGULATIONS NO. 12-2002

SUBJECT : Regulations Providing for the Policies, Procedures, and Guidelines in the Implementation of the Voluntary Assessment and Abatement Program (VAAP) for Taxpayers with Underdeclared Sales/ Receipts/ Income for the Calendar and Fiscal Years 2000, and 2001, and the First and Second Quarter ending June 30, 2002, Pursuant to the RELIEF Program of the Bureau of Internal Revenue, and the Consequences for Non-Availment Thereof.

TO : All Internal Revenue Officers and Others Concerned.

POLICY STATEMENT

The Reconciliation for Listing and Enforcement (RELIEF) System together with the Integrated Tax System (ITS) is now generating firm and precise data on sales underdeclarations. The data show that many taxpayers have not been paying the correct VAT, Income and other taxes to the government.

Using the data generated by the system, criminal cases were filed against an initial batch of taxpayers even as the criminal complaints against the others are being prepared for filing. In the meantime, RELIEF is continuing to uncover many more underdeclarations as the coverage of the matchings and reconciliations is expanded to other return periods and as many other sources of third party information are connected to the system network.

With the objective of making RELIEF immediately contribute to this year's collections, an integrated system for matching and reconciliation of underdeclarations generated by the system must now be set in place.

Since RELIEF has already been partly automated and some matchings and reconciliations are already a fully automated process, an integrated system for handling the output is needed.

These Revenue Regulations prescribe the business rules and the processes for the integrated handling of underdeclarations generated by the RELIEF System.

The policy is to treat and handle past underdeclarations differently from those that will be committed beginning the third quarter of 2002. Underdeclarations for the second quarter of 2002 and prior quarters generated by the RELIEF System shall be entitled to a Voluntary Assessment and Abatement Program (VAAP) described in detail herein.

Underdeclarations in the third quarter 2002 returns and succeeding quarters shall no longer be entitled to this Program but shall be subjected to the full force of the law.

SECTION 1. DURATION OF THE VAAP. –

- (a) Applications for VAAP Availment and corresponding payments thereon in response to BIR Letter Notice as described in Section 4 hereof must be received on or before the deadlines prescribed in said Letter Notice.
- (b) Applications for VAAP Availment and corresponding payments thereon by taxpayers who have not received any BIR Letter Notice as described in Section 6 hereof must be received not later than 15 November 2002.

SEC. 2. SCOPE. – Pursuant to Section 244 in relation to Sections 6, 115, 204, 254, 256 and other pertinent provisions of the National Internal Revenue Code of 1997 (Code), these Regulations are hereby promulgated to provide for the policies, procedures, and guidelines in the implementation of VAAP for taxpayers with underdeclared sales/receipts/income for the taxable years 2000, 2001, and the first and second quarters of 2002 that were or will be subsequently discovered under the RELIEF System as well as under this Program and for similarly situated taxpayers as provided in these Regulations.

SEC. 3. COVERAGE. - These Regulations shall cover the following:

- A. Persons.** – Any person, natural or juridical, subject to income tax under Title II, value-added tax (VAT) under Title IV, and excise tax under Title VI, if applicable, of the Code who has underreported his/her/its sales/receipts/income or taxable base;
- B. Taxes.** – VAT, income tax, and excise tax due, if any, from the underdeclared sales/receipts/income; and
- C. Taxable Periods Covered.-**
 - (1) **Income tax.** – Calendar and fiscal years 2000 and 2001;
 - (2) **Value-added tax.** – Taxable quarters beginning January 1, 2000 up to taxable quarter ending June 30, 2002; and

- (3) **Excise tax.** – Taxable quarters beginning January 1, 2000 up to taxable quarter ending June 30, 2002.

SEC. 4. LETTER NOTICE. – A person found to have under-reported sales/receipts per data generated by RELIEF System shall be sent a Letter Notice detailing the amounts involved and what the Bureau requires from the person. The letter shall include, to the extent feasible and practicable, the following directives:

1. Payment before the deadline set of the Minimum Amounts Payable for VAT, Income Tax and Excise Tax, if any, referred to in 5.1, 5.2, and 5.3 hereof, respectively, in relation to the sales underdeclaration;
2. Submission before the deadline set of the prescribed VAAP Application Form (VAAP-AF) for years 2000, 2001 and the first and second quarters of year 2002 ; and
3. Payment before the deadline set of the appropriate tax payable referred to in 5.4, 5.5, and 5.6 hereof.

Above payments must be made using a VAAP Payment Form (VAAP-PF) while the submissions must conform to the format of the VAAP Application Form (VAAP-AF) both of which shall be prescribed in a Revenue Memorandum Order to be issued.

SEC. 5. COMPUTATION OF AMOUNTS PAYABLE AND DEADLINES. -

- 5.1 VAT Minimum Amount Payable.* – With the figure for total sales/receipts discrepancy stated in the Letter Notice as the base, the minimum amount that must be paid shall be 3% for seller of goods and 6% for seller of services, respectively.
- 5.2 Income Tax Minimum Amount Payable.* – The minimum amount that must be paid shall be 2% of the total sales/receipts discrepancy stated in the Letter Notice.
- 5.3 Excise Tax Minimum Amount Payable.* – For taxpayers subject to excise tax, the minimum amount that must be paid shall be 2% of the total sales discrepancy stated in the Letter Notice.
- 5.4 VAT Payable.* – Taking the submissions (VAAP-AF) made pursuant to the Letter Notice, the VAT payable shall be determined as follows: 110 % of the basic tax due on (A) total adjusted sales consisting of (1) sales declared per returns, plus (2) sales discrepancy stated in the Letter Notice, if any, plus (3) voluntary disclosure of underdeclared sales, (B) multiplied by 1/11, (C) less input taxes. It is equal to the minimum

amount in 5.1 if said minimum amount is greater than or equal to 110% of basic tax due;

5.5 Income Tax Payable. – Taking the submissions made pursuant to the Letter Notice, the income tax payable shall be determined as follows: 110% of the basic tax due on (A) total adjusted sales consisting of (1) sales declared per returns, plus (2) sales discrepancy stated in the Letter Notice, if any, plus (3) voluntary disclosure of underdeclared sales, (B) less allowable deductions, (C) multiplied by income tax rate. It is equal to the minimum amount in 5.2 if said minimum amount is greater than or equal to 110% of basic tax due;

5.6 Excise Tax Payable. – Taking the submissions (VAAP-AF) made pursuant to the letter notice, the excise tax payable shall 110% of the basic tax due on the tax base. It is equal to the minimum amount in 5.3 if said minimum amount is greater than or equal to 110% of basic tax due;

5.7 Basic tax. – As used herein, basic tax shall be equal to Tax Due less VAT/Income Tax/Excise Tax paid in the original return.

5.8 Deadlines. – Payment of the minimum amounts described in 5.1, 5.2 and 5.3 shall be 30 days from date of Letter Notice. Payments of taxes Payable (if any) as described in 5.4, 5.5, and 5.6 shall be 45 days from the date of letter.

5.9 Abatement of Penalties. - Payment of the above amounts shall constitute an abatement or cancellation of penalties, and shall therefore be in lieu of surcharge, interest and penalties otherwise due on the deficiency taxes payable by the taxpayer, subject to Section 8 hereof.

SEC. 6. TAXPAYERS WITHOUT LETTER NOTICE AVAILING OF VAAP. – Taxpayers who wish to avail of this program but have not received the Letter Notice described in Section 4 must make submissions and payments required hereunder using the VAAP-PF and VAAP-AF Forms. The amount payable shall be 110% of the basic tax as defined in Subsection 5.7 hereof. The submission and payments must be made on or before 15 November 2002.

SEC. 7. FAILURE TO AVAIL OF VAAP. - In case the taxpayer fails or refuses to avail of the VAAP for any of the taxable periods covered by these Regulations within the period prescribed in the Letter Notice or the general deadline for VAAP availment which is 15 November 2002, as the case may be, the BIR shall institute such criminal or administrative actions as may be authorized under the Code, specifically, closure, criminal actions, or audit and investigation, depending on the extent of underdeclaration.

SEC. 8. INCORRECT SUBMISSION RESULTING IN ADDITIONAL DISCREPANCIES.–

- 8.1 Notwithstanding the taxpayer's payment of the amounts referred to in Section 5 or 6, should the Bureau discover additional discrepancy through the RELIEF System and the ITS as well as through other processes, where the additional sales discovered exceed the amount voluntarily disclosed by 10% or P1,000,000, whichever is lower, the availment of VAAP for each of the tax type and taxable period covered by the availment shall be considered null and void and the entire under-declaration shall be subjected to the full force of the law;
- 8.2 Likewise, should the Bureau discover through the RELIEF System and the ITS as well as through other process, overstatement in purchases or cost by more than 10% or P1,000,000, whichever is lower, of what has been voluntarily disclosed in the VAAP-AF, the VAAP availment for each of tax type and taxable period covered by the availment shall be considered null and void and the entire under-declaration shall be subjected to the full force of the law;
- 8.3 Notwithstanding the foregoing, if the discrepancy discovered is equal to or less than the threshold amounts prescribed above, the VAAP availment shall remain valid, provided that payment of appropriate additional tax in accordance with Section 5 or Section 6 hereof is made on the additional discrepancy.

SEC. 9. EFFECTIVITY CLAUSE. – The provisions of these Regulations shall take effect fifteen (15) days after publication in a newspaper of general circulation. However, to afford taxpayers more time to prepare the payments and submissions described in these Regulations, the Letter Notices may be sent out even before the publication required herein.

(Original Signed)
JOSE ISIDRO N. CAMACHO
Secretary of Finance

Recommending Approval:

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue