



The Philippines tax amnesty package



Background

On February 14, 2019, Philippine President Rodrigo R. Duterte signed Republic Act No. 11213, otherwise known as the Tax Amnesty Act (“the Act”).

Notably, the original coverage of the Act included a General Tax Amnesty (GTA) which would have provided for the settlement of all national internal revenue taxes, such as income tax, withholding tax, value-added tax, that have remained unpaid as of December 31, 2017. However, President Duterte exercised his veto power on this entire section. Thus, what has been passed as law is composed of two tax amnesty packages: The Estate Tax Amnesty and the Tax Amnesty on Delinquencies.

Estate Tax Amnesty

While the Tax Reform for Acceleration and Inclusion (TRAIN) Law lowered estate tax in the Philippines to a flat rate of 6% effective 1 January 2018, the Estate Tax Amnesty seeks to benefit estates of decedents, who died before the passage of TRAIN Law, by providing a means by which their heirs can settle any and all outstanding estate taxes and consequently, making the estate immune from any civil, criminal, and administrative case in relation to the failure to make timely payments of estate tax.

A taxpayer may avail of the Estate Tax Amnesty through any of the following:

1. Paying 6% on:
 - a. The decedent’s total net estate at the time of his/her death; or
 - b. The net undeclared estate, for cases where an estate tax return had been previously filed.
2. A minimum amnesty tax of Php5,000.00 (approximately USD95), if the estate’s allowable deductions exceed the value of the gross estate.

A taxpayer may avail of the Estate Tax Amnesty by filing a sworn Estate Tax Amnesty Return, a BIR-endorsed Acceptance Payment Form together with the required documents within two (2) years from the effectivity of the Act’s Implementing Rules and Regulations (IRR). The IRR for the Estate Tax Amnesty (Revenue Regulations 6-2019 dated May 29, 2019) became effective on June 15, 2019. Any declarations made by the taxpayer in the Estate Tax Amnesty Return will still be subject to evaluation by the Bureau of Internal Revenue (BIR).

In case of multiple estates or transfers, the Estate Tax Amnesty requires a separate settlement for each decedent or at every stage of the transfer of the property from one decedent to the next. Thus, where the property is registered in the name of a grandparent of the current possessor, the estate taxes of the grandparent and the relevant parent of the current possessor must be paid separately.

Tax Amnesty on Delinquencies

The Tax Amnesty on Delinquencies (“the Delinquency Amnesty”) provides relief to taxpayers and encourages them to seek a fresh start and be free from the consequences of their past failure to make timely payment of their taxes. It covers all national internal revenue taxes subject of an assessment or case that has become final and executory for taxable year 2017 and prior years. These include delinquencies and assessments of doubtful validity, pending criminal cases involving taxes, tax cases

whose judgments have become final and executory, and cases involving withholding agents who failed to remit withheld taxes to the BIR.

A taxpayer availing of the Delinquency Amnesty will be immune from all civil, criminal, and administrative investigations, cases and penalties under the National Internal Revenue Code (NIRC) and all notices, attachments, or warrants of garnishment already issued against the taxpayer shall be set aside.

Under the IRR for the Delinquency Amnesty (Revenue Regulations No. 4-2019 dated April 5, 2019), taxpayers may avail of the Delinquency Amnesty under the following rates:

1. 40% of basic tax assessed, for cases involving delinquencies and assessments that are final and executory;
2. 50% of basic tax assessed, for tax cases subject of final and executory judgment;
3. 60% of basic tax assessed, for pending criminal cases with criminal information filed with DOJ or courts for tax evasion or other criminal offenses; or
4. 100% of basic tax assessed, for cases involving withholding agents who withheld taxes but failed to remit the same:

A taxpayer may avail of the Delinquency Amnesty by submitting the following documentary requirements: a sworn Tax Amnesty Return (TAR), a BIR-endorsed Acceptance Payment Form (APF), Certificate of Tax Delinquencies issued by the relevant BIR Office, and a copy of the assessment found in the Final Assessment Notice / Final Decision on Disputed Assessment for applications involving Delinquent Withholding Tax Liabilities arising from non-withholding of tax, or a Copy of the Preliminary Assessment Notice with or without the FAN/FDDA for applications involving withholding tax liabilities of withholding agents arising from their failure to remit withheld taxes.

The IRR for the Delinquency Amnesty became effective on April 24, 2019. A taxpayer wishing to avail of the Delinquency Amnesty has a period of one (1) year from April 24, 2019, or until April 24, 2020 to accomplish, complete, and submit all the relevant documents to the BIR.

Conclusion

Admittedly, the veto of the GTA is a disappointment for many taxpayers who hoped to put an end to any and all existing issues they are currently facing. Nonetheless, the Act's provisions on Estate Tax Amnesty and Delinquency tax still provide taxpayers with some respite from the burden of the penalties and prosecution resulting from their outstanding tax liabilities.

With the waiver on penalties and immunity from prosecution, the payment of outstanding tax liabilities becomes more bearable for taxpayers, especially those who have limited financial resources. Thus, while the Act does not completely enable taxpayers to turn the page completely, it is nonetheless a first step towards the same. With the recent release of the respective IRRs as well as clarificatory issuances for the Estate Tax Amnesty and Delinquency Amnesty, the Philippine tax authority has set the ball rolling for this latest tax amnesty package.