

**[BIR REVENUE REGULATIONS NO. 9-2010,
September 13, 2010]**

**PROVIDING FOR POLICIES AND GUIDELINES FOR THE
ABATEMENT OF SURCHARGES AND/OR COMPROMISE PENALTIES
IN RELATION TO THE FILING OF TAX RETURNS AND PAYMENT
OF TAXES UNDER CERTAIN CONDITIONS**

SECTION 1. Background. – The Run After Tax Evaders (RATE) Program is being implemented by the Department of Finance (DOF) and Bureau of Internal Revenue (BIR) to investigate and prosecute individuals and/or entities engaged in tax evasion and other criminal violations of the National Internal Revenue Code of 1997 (Code), as amended. In line with this program, the BIR has adopted the policy to deter, to the greatest possible degree, tax evasion practices and to encourage voluntary compliance with the internal revenue tax laws.

Recently, various taxpayers have expressed their willingness to voluntarily file and pay taxes and/or rectify the returns they have previously filed and pay any and all deficiency taxes and increments thereto, but at the same time, they requested for the abatement of corresponding surcharges and/or compromise penalties.

SEC. 2. Scope of Abatement of Surcharges and/or Compromise Penalties. – In view of the foregoing, and in the exercise of the power granted to the Commissioner of Internal Revenue under Section 204 (B)(2), in relation to Section 7(c) of the Code, as amended, the following shall be allowed for the period beginning from the effectivity of these Regulations until October 29, 2010:

A. Filing of Original Tax Returns. – Taxpayers who failed to file their returns and/or pay the correct taxes due may file their returns and pay the deficiency taxes due, inclusive of interests. No surcharges as mandated under Section 248 of the Code, as amended, and compromise penalty prescribed under Revenue Memorandum Order (RMO) No. 19-2007 shall be imposed, provided that the following conditions are complied with:

- i. The return is filed and the full payment of the tax, inclusive of interest due thereon, is received by the BIR not later than October 29, 2010;
- ii. No Letter of Authority (LA), Tax Verification Notice (TVN), Audit Notice (AN), Letter Notice (LN), or discrepancy notices of whatever nature has/have been served on the taxpayer concerned for the tax period for which a return is being filed for pursuant to Section 6(A) of the Code, as amended;
- iii. The tax type involved is not the subject of any pending criminal case for tax evasion and other criminal offenses under the Code, as amended, filed in court or in the Department of Justice (DOJ) or subject of final and executory judgment by court;
- iv. If the return or deficiency tax payment arises from or relates to an

importation, the taxpayer must file the return and pay the tax to the BIR; and

v. The taxpayer shall execute a Declaration of Availment of Abatement under these Regulations (Annex A^{*}) with the following attachments:

- a) Photocopy of the return filed together with attachments required under pertinent revenue issuances; and
- b) Proof of payment of taxes

B. Filing of Amended Tax Returns. – Taxpayers who desire to rectify their returns and pay the correct taxes due may file amended returns and pay the deficiency taxes due thereon, inclusive of interests on the upward adjustments. No compromise penalty prescribed under RMO No. 19-2007 shall be imposed provided that the following conditions are complied with:

i. The amended return is filed and the full payment of the deficiency tax inclusive of interest due thereon, is received by the BIR not later than October 29, 2010;

ii. The amendment made on the return involves an upward adjustment of the amount pertaining to the gross sales/revenues/receipts and/or a downward adjustment of deductions from the gross revenue/receipts or reduction in tax credits; or upward adjustments of both gross sales/revenues/receipts and deductions; provided that in all cases, the amendment or adjustment will result to an additional tax payment;

iii. No LA, TVN, AN, LN, or discrepancy notices of whatever nature has/ have been served on the taxpayer concerned for the tax period for which an amendment is being filed for pursuant to Section 6(A) of the Code, as amended;

iv. The return to be amended and/or the tax type involved is not the subject of any pending criminal case for tax evasion and other criminal offenses under the Code, as amended, filed in court or in the DOJ or subject of final and executory judgment by court;

v. If the amended return or deficiency tax payment arises from or relates to an importation, the taxpayer must file the amended return and pay the tax to the BIR; and

vi. The taxpayer executes a Declaration of Availment of Abatement under these Regulations (Annex A^{*}) with the following attachments:

- a) Photocopy of the original return filed and proof of payment of taxes;
- b) For amended returns arising from or relating to an importation – proof of previous payments of duties and taxes paid to the Bureau of Customs (BOC);
- c) Photocopy of the amended return filed together with attachments required under pertinent revenue issuances; and
- d) Proof of payment of taxes for the amended tax return.

The Declaration of Availment of Abatement (Declaration) under these Regulations (Annex A^{*}) shall be accomplished in triplicate (3) copies and filed on a per tax type and per taxable period basis:

Original and duplicate – BIR

Triplicate – Taxpayer