

**[ BIR REGULATIONS NO. 30-2002, December 16, 2002 ]**

**REVENUE REGULATIONS IMPLEMENTING SECTIONS 7(C), 204(A) AND 290 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997 ON COMPROMISE SETTLEMENT OF INTERNAL REVENUE TAX LIABILITIES SUPERSEDING REVENUE REGULATIONS NOS. 6-2000 AND 7-2001.**

*SECTION 1. Scope and Objectives.* — Pursuant to Section 244 of the National Internal Revenue Code of 1997 (Code), these Regulations are hereby promulgated for the purpose of implementing Sections 7(c), 204(A) and 290 of the same Code, superseding Revenue Regulations (RR) Nos. 6-2000 and 7-2001 and 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 of Internal Revenue and the Courts.

*SEC. 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 *after issuance of the Final Assessment Notice to the taxpayer which are still pending* in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Collection Service, Enforcement Service and other offices in the National Office;
3. Civil tax cases being disputed before the courts;
4. Collection cases filed in courts;
5. Criminal violations, other than those already filed in court or those involving criminal tax fraud.

**EXCEPTIONS:**

1. Withholding tax cases, *unless the applicant-taxpayer invokes provisions of law that cast doubt on the taxpayer's obligation to withhold;*
2. Criminal tax fraud cases *confirmed as such by the Commissioner of Internal Revenue or his duly authorized representative;*
3. Criminal violations already filed in court;
4. Delinquent accounts with duly approved schedule of installment payments;
5. Cases where final reports of reinvestigation or reconsideration have been issued resulting to reduction in the original assessment and the taxpayer is agreeable to such decision *by signing the required agreement form for the purpose.* On the other hand, other protested cases shall be handled by the Regional Evaluation Board (REB) or the National Evaluation Board (NEB) on a case to case basis;

6. Cases which become final and executory after final judgment of a court, *where compromise is requested on the ground of doubtful validity of the assessment; and*
7. *Estate tax cases where compromise is requested on the ground of financial incapacity of the taxpayer.*

**SEC. 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 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 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 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 National Internal Revenue Code of 1997; or

(g) Assessments made based on the "Best Evidence Obtainable Rule" and there is reason to believe that the same can be disputed by sufficient and competent evidence; or

(h) *The assessment was issued within the prescriptive period for assessment as extended by the taxpayer's execution of Waiver of the Statute of Limitations the validity or authenticity of which is being questioned or at issue and there is strong reason to believe and evidence to prove that it is not authentic.*

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

(a) The corporation ceased operation or is already dissolved. *Provided, that tax liabilities corresponding to the Subscription Receivable or Assets distributed/distributable to the stockholders representing return of capital at the time of cessation of operation or dissolution of business shall not be considered for compromise; or*

(b) The taxpayer, as reflected in its latest Balance Sheet supposed to be filed with the Bureau of Internal Revenue, is suffering from surplus or earnings deficit resulting to impairment in the original capital by at least 50%, *provided that amounts payable or due to stockholders other than business-related transactions which are properly includible in the regular "accounts payable" are by fiction of law considered as part of capital and not liability, and provided further that the taxpayer has no sufficient liquid asset to satisfy the tax liability; or*

(c) The taxpayer is suffering from a networth deficit (*total liabilities exceed total assets*) computed by deducting total liabilities (net of deferred credits and amounts payable to stockholders/owners reflected as liabilities, except business-related transactions) from total assets (net of prepaid expenses, deferred charges, pre-operating expenses, as well as appraisal increases in fixed assets), taken from the latest audited financial statements, *provided that in the case of an individual taxpayer, he has no other leviable properties under the law other than his family home; or*

(d) The taxpayer is a compensation income earner with no other source of income and the family's gross monthly compensation income does not exceed the levels of compensation income provided for under Sec. 4.1.1 of these Regulations, and it appears that the taxpayer possesses no other leviable or distrainable assets, other than his family home; or

(e) The taxpayer has been declared by any competent tribunal/authority/body/government agency as bankrupt or insolvent.

The Commissioner shall not consider any offer for compromise settlement *on the ground of financial incapacity of a taxpayer with Tax Credit Certificate (TCC), issued under the National Internal Revenue Code of 1997 or Executive Order No. 226, on hand or in transit, or with pending claim for tax refund or tax credit with the Bureau of Internal Revenue, Department of Finance One-Stop-Shop Tax Credit and Duty Drawback Center (Tax Revenue Group or Investment Incentive Group) and/or the courts, or with existing finalized agreement or prospect of future agreement with any party that resulted or could result to an increase in the equity of the taxpayer at the time of the offer for compromise or at a definite future time. Moreover, no offer of compromise shall be entertained 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 as the authority of the Commissioner to inquire into the bank deposits of the taxpayer.*

Presence of circumstances that would place the taxpayer-applicant's inability to pay in serious doubt can be a ground to deny the application for compromise based on financial incapacity of the taxpayer to pay the tax.