

**[REVENUE MEMORANDUM ORDER NO. 23-02,
SEPTEMBER 30, 2002, September 30, 2002]**

**PRESCRIBING THE GUIDELINES AND PROCEDURES IN THE
IMPLEMENTATION OF THE VOLUNTARY ASSESSMENT AND
ABATEMENT PROGRAM (VAAP) PURSUANT TO THE PROVISIONS OF
REVENUE REGULATIONS NO. 12-2002 DATED SEPTEMBER 11, 2002**

SECTION 1. Objectives. — This Order is issued to:

- 1.1 Prescribe uniform rules for the availment of VAAP and the processes involved in the handling of VAAP applications pursuant to the provisions of Revenue Regulations No. 12-2002;
- 1.2 Prescribe the documentary requirements and information that must be submitted by taxpayers who would avail of VAAP; and
- 1.3 Define the roles and responsibilities of Offices involved in the processing, review, and monitoring of taxpayers who have availed of VAAP.

SECTION 2. General Policies. —

2.1 *Persons Covered.* — Any person, natural or juridical, who has underreported his/its sales/receipts/income or taxable base subject to income tax under Title II, value-added tax under Title IV, and excise tax under Title VI of the National Internal Revenue Code of 1997 (Tax Code).

2.2 *Taxes Covered.* — VAT, income tax, and excise tax, resulting from the underdeclared sales/receipts/income/taxable base, covered by appropriate revenue regulations at the time of taxpayer's availment. The VAAP availment shall include the payment of VAT, income tax, and excise tax due from the sales underdeclaration which taxes/amounts payable shall be computed in accordance with Annex "A" hereof.

2.3 *Taxable Periods Covered.* —

2.3.1 *Income Tax.* — (a) Calendar years 2000 and 2001; (b) Fiscal years 2000 and 2001 except FY ending the month of June 2002 (although considered part of FY 2001). Taxpayers with fiscal year ending the month of June 2002 are not covered by the Program because the deadline for the filing of their income tax returns is on October 15, 2002 and therefore, many might not have filed yet their original income tax returns upon the effectivity of Revenue Regulations No. 12-2002.

2.3.2 *Value Added Tax.* — (a) Calendar Year 2000; (b) Calendar Year 2001; and (c) First Calendar Semester of Year 2002

2.3.3 *Excise Tax.* — (a) Calendar Year 2000; (b) Calendar Year 2001; and (c) First Calendar Semester of Year 2002.

2.4 *Exception from the VAAP Coverage.* —

2.4.1 Those taxpayers subjected to regular audit/investigation covering the taxable years covered by VAAP (i.e., 2000, 2001, etc.) who have been issued Final Assessment Notice

(FAN) on or before September 16, 2002 in respect to the taxes covered.

2.4.2 Persons under investigation as a result of a verified information filed by a Tax Informer under Section 282 of the Tax Code of 1997, duly processed and recorded in the Official Registry Book on or before September 16, 2002.

2.5 *Types of VAAP Availment.* — The type of VAAP availment shall depend on the discrepancy discovered by the BIR through its RELIEF Program and other processes.

2.5.1 Taxpayers who have been sent Letter Notice (LN) by the BIR shall be advised of the following, where applicable:

2.5.1.1 Years/periods with noted discrepancy as of the date of LN;

2.5.1.2 Years/periods without noted discrepancy yet as of the date of LN.

Example. — Mr. A was sent an LN by the BIR. The LN states that for Year 2001, it was discovered that Mr. A underdeclared his sales by P20,000,000. In the LN, he was advised to avail of VAAP not only for Year 2001 but also for Years 2000 and first two (2) calendar quarters of 2002.

In the said LN, Year 2001 is the year with noted discrepancy, whereas Year 2000 as well as first semester of 2002 are, respectively, the periods with no noted discrepancy yet.

2.5.2 Taxpayers who have not received LN from the BIR but would nevertheless want to voluntarily disclose their underdeclared sales/income/taxable base through VAAP for the years covered by the Program.

2.6 *Forms to be Accomplished for VAAP Availment.* —

2.6.1 *Voluntary Assessment and Abatement Program* — Payment Form (VAAP-PF) — VAAP-PF shall be accomplished in four (4) copies. This form shall be used for payment of the amount of taxes required to be paid under the Program.

2.6.2 *Voluntary Assessment and Abatement Program* — Application Form (VAAP-AF) — VAAP-AF shall be accomplished in triplicate copies. This form shall be used to disclose the total adjusted sales/taxable base after considering the amount of underdeclared sales/taxable base voluntarily disclosed, the amount of discrepancy discovered by the BIR as stated in the LN, if any, and the sales/transactions declared per original returns filed. It shall likewise show the deductions/credits claimed to arrive at the taxable base on which the appropriate tax rate is applied to determine the adjusted tax due, basic tax as defined in RR No. 12-2002 as well as the VAAP amount required to be paid under the Program.

2.6.3 *Manner of Accomplishing the Forms.* —

2.6.3.1 *Per tax type and taxable period basis.* — VAAP-PF and VAAP-AF shall be accomplished on a per tax type and taxable period basis. Thus, if the VAAP availment covers two (2) types of taxes, there shall be two (2) sets of VAAP-PF and VAAP-AF to be accomplished corresponding to the tax types and taxable periods covered by the availment except when additional VAAP payments require the accomplishment of another set of VAAP-PF to cover the additional payments to be made. In short, one VAAP-PF with corresponding VAAP-AF covers one tax type for one taxable period as enunciated in this RMO.

2.6.3.2 *Taxable Periods Per VAAP Availment.* — VAAP availment for income tax shall be on a yearly basis. VAAP availment for VAT and excise tax shall likewise be on a yearly rather than on a quarterly basis for Years covering 2000 and 2001. However, for VAAP availment on VAT and excise tax covering the period January 2002 to June 2002, the VAAP availment shall be the cumulative total of the two (2) quarters.

Example:

YEAR	VAAP-AF	VAAP-PF
Year 2000		
VAT	1	1
Income Tax	1	1
Excise Tax	1	1
Year 2001		
VAT	1	1
Income Tax	1	1
Excise Tax	1	1
Year 2002 (up to June 2002)		
VAT	1	1
Excise Tax	<u>1</u>	<u>1</u>
Total	8	8
	=	=

2.7 *Effect of VAAP Availment.* — The following shall be the effects of VAAP availment subject to Section 8 of Revenue Regulations No. 12-2002 and Section 2.9 of this Order.

2.7.1 Abatement or cancellation of penalties that would otherwise be imposed to the taxpayer with respect to the applicable taxes due from the underdeclared sales disclosed, which penalties include the imposition of the 50% surcharge, 20% interest per annum and compromise penalties;

2.7.2 Taxpayer shall not be subjected to criminal penalties;

2.7.3 Taxpayer shall not be subjected to the administrative penalty of closure of business establishment for underdeclaration of at least 30%; and

2.7.4 Taxpayer shall be entitled to the privilege of last priority in audit but the BIR shall continue in gathering third party information from external as well as its internal records.

Nothing precludes the BIR from checking with available sources of information the correctness of the tax base used by the taxpayer in his VAAP availment in respect to the taxable periods where no returns have been previously filed.

2.8 *Disposition of Current Audit Cases.* —

2.8.1 Upon payment of the VAAP amounts prescribed above, the audit case shall be suspended and the docket thereof including the VAAP-AF and VAAP-PF shall be transmitted to the Technical Working Group-Final Validation of Discrepancy (TWG-FVD) for evaluation.

2.8.2 All audit cases (i.e., with Letters of Authority issued) initiated as a result of the discrepancies uncovered by RELIEF, whether such investigation is still on-going or has already been concluded, shall be transmitted to the Technical Working Group-Initial Validation of Discrepancy (TWG-IVD) for evaluation and preparation of Letter Notice embodying the RELIEF findings as well as the findings of the RDO/BIR Office that is conducting the audit of the taxpayer's records and tax liabilities.

2.9 *Consequence of Incorrect Disclosure.* — The abatement or cancellation of penalties is predicated and conditioned on the taxpayer's full, complete, correct, accurate and honest disclosure of his sales/receipts/income/taxable base as well as the payment of correct amount of taxes due thereon. Accordingly, the following rules shall apply:

2.9.1 Notwithstanding taxpayer's availment of VAAP and payment of the amount required under the Program, such availment and the payments made thereon shall be null and void

and the entire underdeclaration shall be subjected to the full force of the law (i.e., criminal prosecution, closure of business establishment, tax audit, provided, approved by the Commissioner) in any of the following cases:

2.9.1.1 The Bureau discovers additional sales/revenues/taxable amounts which have not been disclosed in the VAAP-AF submitted which exceed the amount voluntarily disclosed by 10% or P1,000,000, whichever is lower.

Example. — Mr. X availed of VAAP for the calendar year 2000 despite not having received any LN from the BIR.

In his VAAP-AF, he declared a total adjusted sales amounting to P70,000,000 consisting of the following:

Sales per Y2000 ITR/VAT Returns	P50,000,000
Additional Sales per Voluntary Disclosure	<u>20,000,000</u>
Total Adjusted Sales	P70,000,000
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He paid the corresponding VAAP amounts due on VAT and income using the VAAP-PF.

Subsequently, however, the BIR discovered the following:

Additional Sales per Voluntary Disclosure as indicated in VAAP-AF	P20,000,000
Additional Sales Not Included in VAAP-AF	P40,000,000
(a) Percentage of Incorrect Disclosure. — (P40,000,000/P20,000,000) =	200%
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(b) Threshold Amount for Nullity of VAAP. — Additional sales/revenues/taxable amounts discovered exceed 10% of amount voluntarily disclosed or P1,000,000, whichever is lower.

In this case, since the P40,000,000 additional sales discovered is 200% of the additional sales voluntarily disclosed in the VAAP-AF or more than P1,000,000, the VAAP amounts paid by the taxpayer under the Program shall be considered null and void and the appropriate enforcement action shall be instituted. The maximum penalties shall be applied to the taxpayer's tax liabilities including the amount of sales/receipts/income for which VAAP was availed, less the VAAP amounts and taxes previously paid. Additional sanctions and penalties may still be imposed depending upon the gravity and degree of the discovered underdeclarations.

2.9.1.2 The BIR discovers overstatement in purchases/costs/deductions/credits by more than 10% of what has been disclosed in the VAAP-AF or 1,000,000, whichever is lower.

2.9.2 If the additional sales/revenue/taxable base underdeclaration subsequently discovered by the BIR is less than 10% of what has been previously disclosed in the VAAP-AF submitted or P1,000,000, whichever is lower, the VAAP availment shall remain valid, provided that payment of additional VAAP amounts computed in accordance with Sections 5 and 6 of RR No. 12-2002 as illustrated in Annex "A" hereof shall be made on the additional discrepancy discovered.

2.10 Computation of VAAP. — The computation of the VAAP amounts to be paid shall be made in accordance with Sections 5 and 6 of Revenue Regulations No. 12-2002. A more detailed discussion on how to arrive at the VAAP amounts is properly illustrated in Annex "A" of this Order.

(Note: Tax deduction and credit claimed as applicable to sales discrepancy per LN and/or on sales voluntarily disclosed shall be subject to the submission of soft

copy of schedule of purchases.)

2.11 Offices Responsible. — The Offices identified in Annex "B"^[1] of this Order shall be responsible in ensuring the proper implementation of the Program.

SECTION 3. Conditions and Deadlines of VAAP Availment. —

3.1 For Taxpayers Who Have Been Sent LN By The BIR. —

3.1.1 Payment on or before the deadline prescribed in the Letter Notice of the minimum amounts payable for VAT, income tax, excise tax, if applicable, etc., for the taxable year or years/periods with noted discrepancy (see Section 2.5.1.1) at the following rates stated below which shall be applied on the under-reported sales stated in the LN, using the VAAP-Payment Form (VAAP-PF):

3.1.1.1 VAT — 3% (for sale of goods) or 6% (for sale of services);

3.1.1.2 Income tax — 2% ; and

3.1.1.3 Excise tax — 2%.

3.1.2 Submission of VAAP-Application Form (VAAP-AF) on or before the deadline prescribed in the LN for the year/period with noted discrepancy for VAT, income tax, excise tax, if applicable, etc.; and

3.1.3 Payment on or before the date prescribed in the LN of (A) the balance, if any, 110% of basic tax due on total adjusted sales/income/taxable base for VAT, income tax, excise tax, if any, for taxable year/period with noted discrepancy if the same is bigger than the minimum payment required for under-declared sales/revenue/taxable base discovered (see Section 2.5.1.1); and (B) 110 % of basic tax due on total adjusted sales/income/revenue/taxable base for VAT, income tax, excise tax, if any, etc., for the other taxable years covered by the Program (see Section 2.5.1.2).

3.2 *For Taxpayers Who Have Not Been Sent LN By The BIR. — Submission on or before November 15, 2002 of the following:*

3.2.1 VAAP-AF for each type of tax and taxable period intended to be covered by the availment;

3.2.2 Payment of VAAP amount (i.e., 110% of basic tax due) of the particular taxes and taxable periods intended to be covered by the availment, using VAAP-PF.

SECTION 4. Processing of VAAP. —

4.1 *Data Gathering, Processing and Matching of Gathered Information. —*

4.1.1 The TWG-IVD, under the supervision of the VAT-Project Coordinating Committee (VAT-PCC), gets from the concerned office (e.g., Large Taxpayers Service, through the LT-DPQAD or Systems Operations Division), the summary of sales/purchases filed by taxpayers pursuant to Revenue Regulations No. 13-97 as amended by Revenue Regulations 7-99 and as further amended by Revenue Regulations No. 8-2002.

4.1.2 The RELIEF System consolidates purchases by one or several taxpayers (i.e. Buyers) from a particular supplier (i.e., the "Seller") and matches this against the sales data of Seller;

4.1.3 TWG-IVD requests from concerned RDOs/BIR offices certified true copies of VAT returns, income tax returns, excise tax returns/payment forms of Sellers falling under their respective jurisdiction.