

[BIR REGULATIONS NO. 6-2000, September 05, 2000]

IMPLEMENTING SECTIONS 7(C), 204(A) AND 290 OF THE TAX CODE OF 1997 ON COMPROMISE SETTLEMENT OF INTERNAL REVENUE TAX LIABILITIES

SECTION 1. Scope and Objectives . — Pursuant to Section 244 of the Tax Code of 1997, these Regulations are hereby promulgated for the purpose of implementing Sections 7(c), 204(A) and 290 of the same Code, thereby 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.

SECTION 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 pending in the Regional Offices, Revenue District Offices, Legal Service, Large Taxpayer Service (LTS), Enforcement Service (ES), Excise Taxpayer Service (ETS) and Collection Service;
3. Civil tax cases being disputed before the courts, e.g, CTA, CA, SC;
4. Collection cases filed in courts; and
5. Criminal violations, other than those already filed in court, or those involving criminal tax fraud.

EXCEPTIONS:

1. Withholding tax cases;
2. Criminal tax fraud cases;
3. Criminal violations already filed in court; and
4. Delinquent accounts with duly approved schedule of installment payments.

SECTION 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 delinquency 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 or preliminary 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 Tax Code,

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

(a) The inability to pay is evident as when the audited Balance Sheet for the taxable year preceding the year when the offer is made shows a capital deficit of at least 5% or the Balance Sheet reflects a negative networth of at least 5%; or

(b) The taxpayer is declared by competent court to be bankrupt or insolvent; or

(c) The taxpayer has already been dissolved; or

(d) The taxpayer is a compensation income earner with no other source of income and the family's gross annual income does not exceed P250,000, it appearing that taxpayer possesses no other leviable/distrainable assets.

Circumstances that would place the taxpayer applicant's inability to pay in serious doubt can be a ground to refuse the offer of compromise based on financial incapacity to pay. Furthermore, application for compromise