

**[BIR REVENUE MEMORANDUM ORDER NO. 10-99,
February 09, 1999]**

**ECONOMIC RECOVERY ASSISTANCE PAYMENT (ERAP) PROGRAM
GRANTING IMMUNITY FROM AUDIT AND INVESTIGATION OF
INCOME TAX, VAT AND PERCENTAGE TAX RETURNS FOR THE
TAXABLE YEAR 1998 PURSUANT TO REVENUE REGULATIONS NO.
2-99**

SECTION 1. Objectives

1.1 This Order is issued to:

1.1.1 Prescribe uniform guidelines and procedures in the implementation of Revenue Regulations No. 2-99 on the availment of immunity from audit and investigation of income tax, VAT and percentage tax returns filed by certain taxpayers for taxable year 1998;

1.1.2 Prescribe reporting procedures and guidelines in the processing of applications for immunity from audit under the said regulations;

1.1.3 Define the roles and responsibilities of all offices involved in its implementation.

SECTION 2. Scope

2.1 The immunity from audit and investigation shall apply only to Taxable Year 1998 on the following taxes:

2.1.1 Income Tax;

2.1.2 Value Added Tax; and

2.1.3 Percentage Tax

2.2 The following are NOT covered by the immunity from audit:

2.2.1 Withholding Tax Returns whether in the nature of income, VAT, or percentage tax returns;

2.2.2 All internal revenue taxes other than income tax, VAT and percentage taxes, i.e., estate and donor's taxes, excise taxes and documentary stamp taxes;

2.2.3 Verification to obtain information relevant to the tax liability of another person pursuant to Section 5(b) of the Tax Code, as amended;

2.2.4 Verification to obtain information pursuant to request of a Competent Authority under the Exchange of Information Article of tax treaties entered into by the Philippines with other countries;

2.2.5 Where the taxpayer requests for a refund or credit of any taxes paid;

2.3 The term "Taxable Year 1998" shall include any Fiscal Year ending July 31, 1998 up to Fiscal Year ending June 30, 1999.

SECTION 3. Condition for the Privilege of Immunity from Audit and Investigation

3.1 In order to avail of the immunity from audit and investigation for 1998 tax returns, the taxpayer shall pay or shall have paid at least TWENTY PERCENT (20%) more than the tax paid in 1997 for income tax, VAT and/or percentage taxes, including basic deficiency taxes paid (in cases already audited).

Example 1 —

Income Tax for the calendar year 1997:

Income tax due per return	P1,000
Less: Creditable Withholding Tax	300
Tax paid (and receipted)	P700

The 20% shall be based on the income tax due per return of P1,000.00. Thus, for 1998, income tax payment must be at least P1,200 (P1,000 x 120%) **"normal income tax"** to qualify for immunity from audit and investigation.

Assuming that the corporation is liable for Minimum Corporate Income Tax (MCIT) in the amount of P2,000 in filing its calendar year 1998 final adjustment income tax return, the total amount due shall be P2,200 computed as follows:

Additional tax (P1,000 x 20%)	P200
Add: MCIT	2,000
Total amount due	P2,200

Example 2 —

VAT payments:

If, for the 1st quarter return of 1997, VAT payments net of input taxes is P10,000, computed in the VAT Returns as follows:

Output Tax Due	P50,000
Less: Input Tax	40,000
VAT paid per return	P10,000

Then, the 1st quarter return of 1998, net of input taxes, must be at least P12,000 (P10,000 x 120%) to qualify.

3.2 Provided however, that, where the tax payment for 1998 for either the income, VAT or percentage tax does not exceed that of 1997 by 20% or more, the taxpayer

shall be accorded immunity from audit and investigation only with respect to that tax return which complies with the 20% requirement. In such a case, the return which fails to comply with the said requirement shall still be subject to audit and investigation. For example, a taxpayer made the following payments:

Type of Tax	1997	1998	% of increase
Normal Income Tax	100,000	125,000	25%
VAT	100,000	105,000	5%
Percentage	100,000	115,000	15%

In the above illustration, his VAT and Percentage Tax Returns shall not qualify for immunity from audit and investigation because the increase in his tax payment did not meet the 20% requirement herein prescribed. Hence, only his 1998 income tax return qualifies for immunity from audit and investigation.

3.3 In computing the 20% increase, deficiency payments for 1997 incomes, VAT and/or percentage taxes shall be included in the computation of the 20% for purposes of the avilment of this privilege. Provided, however, that with respect to deficiency tax payments, only the basic tax shall be included in the computation. Interest, surcharges and other penalties shall not be included.

Illustration:

Taxable Year 1997

Income Tax Paid	P100,000
Deficiency Tax Payment (basic tax only)	27,500
Total Payment in	1997 P127,500

Taxable Year 1998

To qualify for immunity from audit and investigation, the 1998 tax payment must be at least P153,000 computed as follows:

Total Payment for 1997	P127,500
Increase in payment (P127,500 x 20%)	25,500
Total Payment to qualify	P153,000

Illustration (Value-Added Tax/Percentage Tax):

Taxable Year 1997

Tax Paid per 1997 First Quarter Return	P100,000
Deficiency Tax Payment (basic tax only)	50,000
Total Payment in 1997 First Quarter Return	P150,000

Taxable Year 1998

To qualify for immunity from audit and investigation, the tax payment in the 1998 First Quarter Return must be at least P180,000 computed as follows:

Total Payment in the First Quarter of 1997	P150,000
Increase in payment (P150,000 x 20%)	30,000
Total Payment to qualify	P180,000

Every quarter for taxable year 1998 must comply with the minimum payment requirement as illustrated above to qualify the taxpayer for the immunity for all taxable quarters of taxable year 1998.

3.4 In case no tax was paid per the taxpayer's return for the year 1997, his 1998 tax return may qualify for immunity from audit and investigation, provided, such taxpayer complies with the following conditions:

3.4.1 For income tax purposes, the taxpayer shall pay an amount equivalent to one-half of one percent ($\frac{1}{2}$ of 1%) based on his gross sales or receipts during the taxable year 1998 (in case of individuals) or 2% (in case of corporations);

3.4.2 For VAT and/or percentage tax purposes, since the quarterly VAT and/or percentage tax returns have already been filed as of January 25, 1999, covering the prior year 1998, the taxpayer may qualify for immunity from audit and investigation of the said returns, provided such taxpayer pays an additional amount of 20% based on the VAT and/or percentage tax paid per the said quarterly returns filed.

Illustration:

<u>Taxable Year 1998</u>	<u>Amount Paid per Return</u>
First Quarter	P10,000
Second Quarter	-0-
Third Quarter	-0-
Fourth Quarter	20,000
Total Tax Paid for the Year	P30,000

To qualify for immunity from audit and investigation of the VAT/percentage tax returns filed for 1998, the taxpayer must pay an additional amount equivalent to 20% of the taxes paid per said quarterly returns. Since no tax has been paid per second and third quarterly returns, these returns shall not qualify for avilment of the immunity from audit and investigation.

3.5 All income, VAT and percentage tax returns filed for taxable year 1997 where no tax per return was paid, can not be amended to reflect a payable amount per return for purposes of availing of the privilege granted under RR No. 2-99 by complying with the conditions laid down in Section 3, paragraphs 3.1 to 3.3 of this Order. In fine, to qualify for immunity from audit and investigation, the conditions provided for under Section 3, paragraph 3.4 must be strictly followed.

SECTION 4. Payment of Additional Taxes to Comply with 20% Requirement. —