

**[BIR REVENUE REGULATIONS NO. 2-99, February
07, 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 UNDER CERTAIN CONDITIONS**

Pursuant to Sec. 6(a) in relation to Section 244 of the National Internal Revenue Code of 1997, these Regulations are hereby promulgated to establish the policy and procedures governing the availment of immunity from audit and investigation of income tax, VAT and percentage tax returns filed by certain taxpayers for the taxable year 1998.

POLICY STATEMENT

In preparation for the full implementation of a computerized tax administration, there is a necessity to clean the Bureau's backlog of unaudited tax returns in order to keep updated and be focused with the most current accounts. Toward this end, and considering the scarcity of financial and human resource as well as the time constraints within which the Bureau has to implement such an endeavor, these Regulations providing for last priority in audit and investigation of tax returns is hereby adopted to accomplish this objective without however compromising the revenue collection that would have been generated from audit and enforcement activities.

In promulgating these Regulations, policy considerations of this Bureau to maximize revenue collection with least administration costs, to encourage voluntary tax compliance, and to maintain a harmonious relation with taxpayers by minimizing inconvenience relative to investigation were given due weight. The taxpaying public are hereby granted the opportunity to assist in the economic recovery by voluntarily paying their taxes through the ERAP return in accordance with the rules herein provided.

SECTION 1. Scope and Objective. — The immunity from audit and investigation herein granted shall apply only to income tax, VAT and percentage tax returns covering the taxable year 1998, except withholding tax returns (whether for income, VAT, or percentage tax purposes). The term "Taxable Year 1998" shall include any Fiscal Year ending on the last day of any month from July 31, 1998 up to June 30, 1999.

SECTION 2. Condition for the Privilege of Immunity from Audit and Investigation. —

2.1 In order to avail of the immunity from audit and investigation for 1998 tax returns, the taxpayer shall pay or shall have paid TWENTY PERCENT (20%) or more

than the tax paid in 1997 for income tax, VAT and/or percentage taxes, including basic deficiency taxes paid (in cases already audited).

For example, for the calendar year 1997:

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

1998 Income tax payment must be at least P1,200 "**normal income tax**" to qualify for immunity from audit and investigation.

Assuming that the corporation is liable for minimum corporate income tax 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 |

For example, VAT payments for the 1st quarter 1997:

1st quarter return 1997, net of input taxes - P10,000

1st quarter return 1998, net of input taxes, must be at least P12,000 to qualify.

2.2 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 qualify for immunity from audit and investigation.

2.3 In computing the 20% increase, amendments in the 1997 income, VAT or percentage tax returns as well as deficiency tax payments shall be included in the computation of the 20% for purposes of the availment 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: