REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

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October 7, 2020

REVENUE MEMORANDUM CIRCULAR NO. 111-2020

SUBJECT : **Clarifications on Certain Issues Relative to the Voluntary Assessment and Payment Program (VAPP) Pursuant to Revenue Regulations (RR) No. 21-2020**

TO : **All Internal Revenue Officers, Employees and Others Concerned**

This Circular is issued to provide clarifications on the implementation of the Voluntary Assessment and Payment Program (VAPP) under Revenue Regulations (RR) No. 21-2020, to wit:

Q1. Who are qualified to avail of the VAPP?

A1. In general, all persons, natural and juridical, including estates and trusts, are qualified to avail of the VAPP.

Q2. What is the covered period?

A2. The VAPP covers calendar year 2018 and fiscal year 2018 ending in July, August, September, October, and November 2018, as well as those ending in January, February, March, April, May and June 2019, for availments on the registered tax types of the taxpayer.

For one-time transactions (ONETT) of individuals and taxpayers on a calendar year basis, the VAPP covers all transactions from January to December 2018. For taxpayers on a fiscal year basis, the covered ONETT are those within their fiscal year 2018. For example, if the fiscal year of the taxpayer is from May 1, 2018 to April 30, 2019, the ONETT covered is within this inclusive period.

Q3. Can a taxpayer avail of the program for only one or two tax types and leave out the other tax types to which the taxpayer is registered?

A3. Availment should cover all the tax types to which the taxpayer is registered, including withholding taxes, except when the taxpayer is pursuing a claim for tax credit/refund, in which case, he can leave out the tax type for such claim.

Q4. Can a taxpayer avail of the program for the tax type(s) only on ONETT?

A4. Yes.

Q5. What forms shall be used in the application and payment of VAPP?

A5. Taxpayers shall use BIR Form No. 2119 for the application and BIR Form No. 0622 for payment of the corresponding voluntary tax.

Q6. How will the BIR Form No. 2119 be accomplished and filed and where will the payment per BIR Form No. 0622 be paid?

A6. Taxpayers, including those registered in the electronic Filing and Payment System (eFPS) have to download the PDF version of the BIR Form Nos. 2119 and 0622 from the BIR website (www.bir.gov.ph) under the BIR Forms section, completely fill-out the applicable fields and pay the corresponding taxes due thereon to the Authorized Agent Bank (AAB)/Revenue Collection Office (RCO) where the taxpayer is registered or having jurisdiction over the transaction, as the case may be. Payment through e-payment channels (e.g., G-Cash and PayMaya) is not allowable.

If a business taxpayer wants to avail of the benefit of the program, his availment should cover both Sections 9.a. and 9.b. Separate application and payment forms should be accomplished for these sections. Likewise, if availment will also cover Section 9.c, a separate application and payment form should be prepared.

The above forms, together with other required documents, may be filed in person or through courier service, to the concerned BIR office.

Q7. Since multiple tax types are covered in the applications, what Alphanumeric Tax Code (ATC), Tax Type Code and Tax Type Description will be indicated on the application (BIR Form No. 2119) and payment (BIR Form No. 0622) forms?

A7. For availment under Section 9.a for Income Tax, Value-Added Tax, Percentage Tax, Excise Tax and Documentary Stamp Tax (DST) other than for One-Time Transactions (ONETT), the ATC is MC341. For availment under Section 9.b for Final and Creditable Withholding Taxes, the ATC is MC342, and for availment for taxes on ONETT (Estate Tax, Donor's Tax, Capital Gains Tax, Creditable/Expanded Withholding Tax and DST), the ATC is MC343.

Q8. Where will the application for VAPP on ONETT for sale of shares of stock not traded through the local stock exchange be filed and what additional requirements must be submitted?

A8. The application shall be filed with the BIR Office where the taxpayer-seller is registered. The additional requirements that must be submitted are copies of the duly validated BIR Form No. 1707 – Capital Gains Tax Return (For Onerous Transfer of Shares of Stocks Not Traded Through the Local Stock Exchange) and BIR Form No. 2000-0T (Documentary Stamp Tax Declaration/Return – One-Time Transactions), Payment Forms and proofs of tax payments.

Q9. What copy of the tax return will be submitted as additional requirement for availment for creditable/expanded withholding tax for onerous transfer of real property other than capital asset?

A9. BIR Form No. 1606 – Withholding Tax Remittance Return

Q10. If there are tax returns data which are different from those in the BIR's information system, what will prevail, the taxpayer's copy or the BIR's record?

A10. The BIR-Integrated Tax System (ITS)-generated data will prevail unless there is proof of error in encoding of the tax returns data.

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Q11. If a taxpayer is registered in one district who wants to avail of the VAPP for all his registered internal revenue taxes and he also wants to avail for his donor's tax on his donation and capital gains tax on a sale of his real property, where should he file the VAPP applications?

A11. For availment of the registered internal revenue taxes under Sections 9.a and 9.b of RR No. 21-2020, the filing of the application should be in the BIR office where the taxpayer is registered. For availment of donor's tax, the application should be filed at the RDO where the donor-taxpayer is domiciled at the time of donation and for the transaction involving sale of real property, the application should be filed with the RDO having jurisdiction over the location of the property.

Q12. Is payment by check acceptable?

A12. Yes, provided that check payments conform to the payment requirements of the BIR.

Q13. Can payment through Tax Remittance Advice (TRA) be considered as "cash" under the regulations?

A13. No. The purpose of the regulations is to raise additional revenues to augment government funds due to rising expenditures from the outset of the COVID-19 pandemic. Hence, cash or all its forms are required for payment.

Q14. What do we mean by gross sales as basis for computing the amount of voluntary tax payment under Section 9.a?

A14. For purposes of these regulations, "gross sales" shall mean the sales/receipts/revenues/fees net of sales returns, allowances and discounts per Annual Income Tax Return.

Q15. If there is no increase or decrease in the total taxes due for all tax types in 2018 compared to all taxes due in 2017, as in the case of enterprises enjoying tax exemptions and incentives, how will the voluntary tax payment under Section 9.a be computed?

A15. The voluntary tax payment shall be computed based on the "net increase of not more than 10%" per table under Section 9.a.

Q16. If the taxpayer is only in its first year of operation for 2018 and there are taxes due for this year per tax returns filed, can the taxpayer avail of the VAPP? If so, how will the voluntary payment under Section 9.a be computed?

A16. Yes. Under this scenario, the voluntary tax payment shall be computed based on the "net increase of more than 30%", since there is no tax payment to be considered for 2017.

Q17. If the taxpayer paid improperly accumulated earnings tax, will the payment be included in the total taxes due for the purpose of computing the increase/decrease?

A17. Yes, improperly accumulated earnings tax paid should be included in the total taxes due as it can be considered as income tax.

Q18. If the taxpayer's assessment on ONETT pertains only to the penalties, how should the voluntary payment be computed?

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A18. The voluntary payment shall be 5% of the basic tax paid.

Q19. In case the taxpayer paid minimum corporate income tax (MCIT) in 2017 and paid the normal income tax in 2018, what shall be the basis for his/its income tax due per return for 2017 and 2018?

A19. The MCIT shall be the income tax due for 2017 while the annual corporate income tax due computed under the normal income tax before deducting any tax credits/payments shall be considered as the income tax due for 2018.

Q20. Do we consider excess tax credits from prior period/taxable year in determining the Net VAT due? If the net VAT due is a negative amount, what will be the effect in computing the increase/decrease of total taxes due from 2017 to 2018?

A20. Yes, the reference to determine the VAT due for taxable years 2017 and 2018 is Line 25 – "Net VAT payable" in the quarterly VAT return. If the net VAT due is a negative amount, then the total taxes due for the year will not be reduced by the negative VAT amount.

Q21. If the taxpayer paid percentage tax or availed of the eight percent (8%) income tax rate despite having exceeded the threshold of three million pesos (P3,000,000), can he apply for the VAPP?

A21. Yes, provided that the VAT return will be filed and the VAT will be paid with the corresponding penalties after deducting the total percentage tax payments.

Q22. If the basic deficiency tax for 2018 is added to all the tax due per returns to determine the increase/decrease from 2017 to 2018, will any deficiency tax payment for 2017 be added also to all the tax due of the returns in 2017?

A22. No. The RR expressly stated that basic deficiency payment shall only be added to the taxable period covered under Section 3 for purposes of computing the increase/decrease in tax payments, which is taxable year 2018, that includes fiscal year ending July 2018 to June 2019.

Q23. Is the waiver for refund in Section 12 of the regulations applicable only to claims for refund on erroneous payment?

A23. Yes. In Section 9.a of the same RR, it is stated that for taxpayers with claims for tax credit/refund, this shall constitute as a waiver of such claims under Section 12 unless they exclude from their availment the specific tax type for which they are pursuing the claim for tax credit/refund.

Q24. If the taxpayer would like to apply for the VAPP but he declines to waive his right to claim for refund, can he leave out from the availment the tax type for said refund?

A24. Yes, thus the specific tax type pertaining to the refund on erroneous payment referred to Section 12 shall not be covered by the availment.

Q25. Can a taxpayer with a claim for tax credit or refund avail of the VAPP under Section 9.a? If the taxpayer has a pending claim, e.g. for VAT refund, under process in a BIR office, will the required audit/verification to process the claim be continued?

A25. Yes, a taxpayer with a pending claim for tax credit/refund can avail of the VAPP, provided that the claim is not on erroneous payment for which the taxpayer has not

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waived his right to such claim. For regular claims on tax types under Secton 9.a, the audit/verification and processing of the claim shall be continued, even if the corresponding tax type is included in the availment.

Q26. Is a taxpayer who failed to withhold and remit withheld taxes in 2018 qualified to avail of the VAPP under Section 9.b of RR 21-2020?

A26. Yes, under the condition that the amount not withheld and not remitted has to be paid first and the same shall form part of the total taxes remitted for 2018 which shall be the taxable base in determining the five percent (5%) required amount to be paid to avail of the benefits under VAPP.

Q27. In illustration 4 shown in RR 21-2020, the capital gains tax (CGT) and Documentary Stamp Tax (DST) were computed based on the higher amount between the zonal value (ZV) and fair market value (FMV) of the property, why is the selling price (SP) not considered?

A27. The illustration failed to state the SP in the given facts but it does not mean that CGT and DST shall only be computed based on whichever is the higher value between the ZV as determined by the BIR or the FMV as indicated in the Tax Declaration of the property. It has to be based on the highest value among the SP, ZV or FMV.

Q28. Does the exception in Section 3.d of RR No. 21-2020 "with pending cases" include those who failed to comply with an issued Subpoena Duces Tecum?

A28. No, if no criminal case has been filed in court yet for failure to comply with the SDT.

Q29. If the taxpayer is currently under audit/investigation for 2018 and he availed of the VAPP but the application is still under evaluation and awaiting approval in the investigating office, will the audit be continued?

A29. The conduct of audit shall be suspended while the availment is under evaluation. Upon issuance of a Certificate of Availment, the electronic Letter of Authority and other related notices shall be withdrawn and canceled.

Q30. If the taxpayer has an on-going investigation or a duly issued but protested Final Assessment Notice (FAN) for 2017 and/or 2018, can he avail of the program? Will the amount of the proposed deficiency tax or the assessment appearing on the FAN be taken into account in computing the minimum voluntary payment required for VAPP?

A30. Yes, he can avail of the VAPP, but the availment will not cover taxable year 2017. The amount on the FAN for the 2018 audit case will, in no way, affect the computation of the voluntary payment for VAPP.

Q31. What FANs are considered final and executory?

A31. Per RMO No. 11-2014, FANs are final executory if not protested within the thirty (30) –day period from receipt, if not appealed to the Commissioner or the CTA within the thirty (30) –day period from receipt of the Final Decision on Disputed Assessment (FDDA), in case of failure to submit the documents required upon reinvestigation within the sixty (60)- day period to submit the documents from approval of the request for reinvestigation, or in case of failure to appeal to the CTA

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within 30 days from the inaction of the BIR after 180 days from the appeal on the FDDA.

Q32. What is the status of FANs not protested in thirty (30) days from receipt but the same are not yet recorded as Accounts Receivable since the dockets are not yet transmitted to the Collection Division of the Revenue Region/LT Collection Enforcement Division in the National Office?

A32. They are final and executory.

Q33. Can taxpayers with duly issued but protested Final Assessment Notices (FANs) avail of the VAPP?

A33. Yes, provided the FANs are for taxable year 2018, are still under protest on or before the effectivity of the regulations and all tax types of the taxpayer are covered in the availment.

Q34. How will concerned offices, e.g. the investigating, reviewing and legal offices, be informed if the cases pending with them for appropriate action pertain to taxpayers who had been issued a Certificate of Availment (CA)?

A34. The taxpayer should give a copy of the Payment Form, proofs of payment and CA to the concerned office.

Q35. If the taxpayer with FAN has a duly issued CA after availing of the VAPP, how will the assessment be cancelled? Is there a need to issue an Authority to Cancel Assessment (ATCA)?

A35. Yes. In all instances where there will be a cancellation or reduction of assessment per FAN, an ATCA should be approved and issued by the authorized revenue official in accordance with existing policies and procedures.

Q36. In case of denial of the availment, will the taxpayer be notified?

A36. Yes, the head of the processing office should issue a letter informing the taxpayer of the denial and the reason(s) therefor.

Q37. If the taxpayer availed of the VAPP under Section 9.c, when will the electronic Certificate Authorizing Registration (eCAR) be issued?

A37. The eCAR shall be issued within five days from the issuance of the CA.

Q38. If a taxpayer who was notified to rectify the deficiencies in the availment or to pay the additional voluntary tax but fails to do so within ten (10) days from receipt of the notification, can he comply before the deadline of December 31, 2020 and qualify for the benefit of the VAPP?

A38. No. The RR does not state any allowance or extension for the rectification.

Q39. If the availment is denied or the CA has been invalidated pursuant to Section No. 11 of the RR despite payment of the voluntary tax, what will be the treatment of the payment?

A39. In case the taxpayer's availment rendered invalid and the taxpayer was subjected to audit/investigation under existing rules and regulations, upon authorization and

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approval of the Commissioner of Internal Revenue, any voluntary tax paid by the taxpayer per BIR Form No. 0622 shall constitute as payment of the deficiency tax assessments for taxable year 2018, provided, that such payment includes the specific tax types and taxable period covered by the assessment notice.

Q40. If the taxpayer paid the tax for the VAPP on or before December 31, 2020 and submits the application after the deadline to the concerned BIR office, what will be the effect on the application?

A40. If the payment is on or before December 31, 2020 but submission of the application is thereafter, this can be considered as availed of within the deadline. However, validity of the availment will depend upon the documents submitted and the amount of voluntary payment.

All are enjoined to give this Circular a wide publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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