REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

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REVENUE MEMORANDUM CIRCULAR NO. 138-2020

SUBJECT: **Clarifying Revenue Regulations No. 25-2020 on the Availment of NOLCO for Taxpayers Adopting Fiscal Year**

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

Revenue Regulations No. 25-2020 was issued on Sept. 30, 2020 to implement Section 4 (bbbb) of Republic Act (RA) No. 11494 or the "Bayanihan to Recover as One Act" relative to the Net Operating Loss Carry-Over (NOLCO) incurred by businesses for taxable years 2020 and 2021.

The said Regulations, in conformity with the law, stated that, "unless otherwise disqualified from claiming the deduction, the business or enterprise which incurred net operating loss for taxable years 2020 and 2021 shall be allowed to carry over the same as a deduction from its gross income for the next five (5) consecutive taxable years immediately following the year of such loss.". The terms taxable year and fiscal year are defined in Sec. 3 of the Regulations as follows:

> *"3.5 Taxable Year - means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under Title II of the Tax Code of 1997, as amended. Taxable year includes, in the case of a return made for a fractional part of a year, the period for which such return is made.*
>
> *3.6 Fiscal Year- means an accounting period of twelve (12) months ending on the last day of any month other than December. Taxable year 2020 and 2021 shall include all those corporations with fiscal years ending on or before June 30,2021, and June 30, 2022, respectively."*

Under existing revenue issuances, a fiscal year (FY) will fall on a particular taxable year depending on the number of months it has on the two (2) years involved. Thus, a FY ending on March 31, 2020 will fall on taxable year 2019 since it has nine (9) months in 2019 and only three (3) months in 2020. In the case of FY ending on June 30, 2021, the beginning of which is July 1, 2020, it is considered as taxable year 2020 since it has more days in 2020 (184 days) than in 2021 (181 days).

Based on the above, the following FY ending on the stated months are counted as:

Taxable year 2020		Taxable year 2021	
FY ending July 31, 2020	FY ending Jan. 31, 2021	FY ending July 31, 2021	FY ending Jan. 31, 2022
FY ending Aug. 31, 2020	FY ending Feb. 28, 2021	FY ending Aug. 31, 2021	FY ending Feb. 28, 2022
FY ending Sept. 30, 2020	FY ending March 31, 2021	FY ending Sept. 30, 2021	FY ending March 31, 2022
FY ending Oct. 31, 2020	FY ending April 30, 2021	FY ending Oct. 31, 2021	FY ending April 30, 2022
FY ending Nov. 30, 2020	FY ending May, 31, 2021	FY ending Nov. 30, 2021	FY ending May, 31, 2022
	FY ending June 30, 2021		FY ending June 30, 2022

Those companies with fiscal years ending *before* July 31, 2020 and fiscal years ending *after* June 30, 2022 which incurred net operating loss are only allowed to carry-over the loss as a deduction from its gross income for the next three (3) consecutive taxable years under Sec. 34 (D)(3) of the Tax Code, as amended. They cannot avail of the extended period to carry-over the loss for another two (2) years.

All internal revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

This Circular shall take effect immediately.

CAESAR R. DULAY
Commissioner of Internal Revenue

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