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

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May 29, 2018

REVENUE MEMORANDUM CIRCULAR NO. 54-2018

SUBJECT : Clarifying the Imposition of Penalties and Interest on the Filing of an Amended Return

TO : All Internal Revenue Officials and Employees Concerned

This Circular is issued to clarify and reiterate the imposition of surcharge, interest and compromise penalty for filing of an amended return and the interest rate to be imposed in accordance with Section 249 (A) of the National Internal Revenue Code of 1997, as amended by Republic Act (RA) No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

Background

In response to the issue raised in an email dated May 26, 2017 to the Presidential Complaint Center and referred to the Office of the Deputy Commissioner – Operations Group prior to the effectivity of RA No. 10963, Memorandum No. 016-2018 was issued and circularized through Revenue Memorandum Circular (RMC) No. 21-2018. In the said memorandum, it was stated that -

> "Under the above quoted provisions, it is clear that interest of twenty percent (20%) and penalty equivalent to twenty-five percent (25%) of the amount due shall be imposed on failure to file any return and pay the tax due thereon on the date prescribed or failure to pay the full or part of the amount of tax shown on any return as required under the provisions of the National Internal Revenue Code or rules and regulations. Thus, in an amendment of return where an additional tax is due per amended return, 20% interest and 25% penalty shall be imposed based on the additional tax to be paid per amended return."

Clarification

Section 75 of Republic Act No. 10963 provides that -

"SEC. 75. Section 249 of the NIRC, as amended, is hereby further amended to read as follows:

'SEC. 249. *Interest* –

'(A) *In General.* – There shall be assessed and collected on any unpaid amount of tax, interest **at the rate of double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas** from the date prescribed for payment until the amount is fully paid: *Provided*, That in no case shall the deficiency and the delinquency interest prescribed

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under Subsections (B) and (C) hereof, be imposed simultaneously." (Emphasis supplied)

Pursuant to Section 1 of Bangko Sentral ng Pilipinas (BSP) Circular No. 799 Series of 2013, the rate of interest in the absence of stipulation shall be:

> "Section 1. The rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgements, in the absence of an express contract as to such rate of interest, shall be six percent (6%) per annum."

Based on the foregoing, beginning January 1, 2018, the effectivity date of the TRAIN Law, the interest rate shall be 12% per annum, until a new interest rate shall be prescribed by the BSP.

Thus, in an amendment of a return where an additional tax is due per amended return, 25% penalty and 12% interest shall be imposed based on the additional tax to be paid.

As regards the imposition of compromise penalties, as stated in Memo-016-2018 dated March 15, 2018, compromise penalties per Revenue Memorandum Order (RMO) No. 7-2015 which updates the Schedule of Compromise Penalties specified in RMO No. 19-2007, are only amounts suggested by the Bureau of Internal Revenue in settlement of criminal liability for violations committed by taxpayers, the payment of which are consensual in nature, and may not therefore be imposed or exacted on the taxpayer. Thus, in the event that a taxpayer refuses to pay the suggested compromise penalty, the violation shall be referred to the appropriate office for criminal action.

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

CAESAR R. DULAY
Commissioner of Internal Revenue

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