REPUBLIKA NG PILIPINAS
KAGAWARAN NG PANANALAPI
KAWANIHAN NG RENTAS INTERNAS

May 18, 2005

REVENUE REGULATIONS NO. 10-2005

SUBJECT : Amending Certain Provisions of Revenue Regulations No. 6-2005 Resulting from the Amendment of Section 2 of Executive Order No. 399 (EO 399), Directing the Bureau of Internal Revenue (BIR) to Establish the "No Audit Program" (NAP) for the Purpose of Enhancing Tax Compliance and Increasing Tax Collections.

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

SECTION 1. BACKGROUND

Her Excellency Gloria Macapagal-Arroyo issued on April 26, 2005, Executive Order No. 422 (EO 422), providing for certain enhancement to Executive Order No. 399 (EPO 399) issued on January 17, 2005 Executive Order No. 399 to encourage taxpayers to voluntarily declare and pay higher taxes thereby reducing administrative costs that are entailed from audit and investigations conducted by the Bureau of Internal Revenue (Bureau). Under the "No Audit Program" (NAP), taxpayers who qualify under its terms and conditions shall be exempted from audit and/or investigation for the period for which they qualify. The NAP shall be in force for taxable years 2004, 2005, 2006, 2007 and 2008.

Pursuant to Section 6 and Section 244 of the National Internal Revenue Code of 1997 (Republic Act No. 8424) in relation to Section 1 of EO 422, these regulations are hereby promulgated to amendment certain sections of Revenue Regulations No. 6-2005.

SECTION 2. Section 2(c) of Revenue Regulations No. 6-2005 is hereby amended to read as follow:

"(c) **Taxable Year** – refers to any 12-month period starting on any date from August 1 of the prior to the indicated year.

Illustration: For taxpayers who are on a fiscal year basis, if his accounting period starts on August 1, 2003, then returns filed for said period are considered returns for taxable year 2004."

SECTION 3. Section 5 of Revenue Regulations No. 6-2005 is hereby amended to read as follow:

"SECTION 5. CRITERIA FOR QUALIFICATION UNDER THE PROGRAM

For a taxpayer to qualify for the NAP, he must satisfy all of the following:

a. income tax payment for the Current Taxable Year must exceed the income tax payment for the Base Year by at least 20%;

b. ratio of income tax payment to gross sales/receipts for the Current Taxable Year must be at least equal to that of the Base Year;

c. ratio of net value added tax or business tax actually paid to gross sales/receipts for the Current Taxable Year must be at least equal to that of the Base Year, provided, however, that in no case shall be it be less than three percent (3%) for those subject to percentage tax, or thirty percent (30%) of the Value-Added tax rate provided by law for any given period for those subject to value added tax, or the industry benchmark as may be determined from time to time by the Commissioner Internal Revenue.

For purposes of determining the tax payments for the Current Taxable Year, only taxes actually paid in cash as shown in the Income Tax Return, quarterly income tax return, value added tax return and percentage tax return shall be considered. For this purpose, creditable withholding taxes for taxes withheld for the tax year concerned, which are properly supported by a Certificate of Tax Withheld (BIR Form 2307), shall be considered as cash payments. On the other hand, TCCs/TDMs, and tax credit carried over from prior years are considered non-cash items and shall be excluded from determining the tax payments for the Current Taxable Year.

However, for purposes of determining tax payments for the Base Year from which the increase in tax payments and ratio required to qualify for the NAP shall be measured, the total amount of tax due for the Base Year shall be included regardless of the mode of payment, i.e., whether paid in cash, creditable withholding tax, TCCs/TDMs, or tax credit carried over from prior Taxable Years.

In the event the taxpayer was not in operation for the whole period of the Base Year, the tax payments for that period shall be annualized, and such annualized tax payments shall be used as the tax payment of the Base Year from which the growth and ratio required shall be computed.

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ILLUSTRATION:

Taxpayer A, who is on calendar year basis of accounting, started his business on July 1, 2003, and paid income tax amounting to P60,000.00. For purposes of computing his tax payment for the Base Year 2003, his total income tax payment shall be divided by the number of month he is in operation and then multiplied by 12 months. In this case, his annualized income tax payment for 2003 is P60,000/6 x 12 months, or P120,000.00.

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Provided further, that the growth rate and ratio provided herein shall adjusted to reflect the effect of the increase/decrease of tax rate resulting from said legislative measures.

In the event a taxpayer shall have been issued an assessment that has become final and executory relating to tax payments for a Base Year, the tax payment for the Base Year shall be adjusted in accordance with the assessment.

In case the taxpayer amends his tax and information returns for any Base Year, the higher of the original amount and the amended amount shall be used as the tax payment for the Base Year for purposes of this section."

SECTION 4. Section 9 of Revenue Regulations No. 6-2005 is hereby amended to read as follow:

"**SECTION 9. DEADLINE.**

A Taxpayer must file an application form, duly accomplished, together with all its attachment not later than thirty (30) days from

the statutory deadline for the filing of the annual income tax return for the year subject of the application, or in the case of those Taxpayers whose statutory deadline for filing their annual income tax returns occurred earlier than the date of the effectivity of these Regulations, their application must be filed within thirty (30) days from the effectivity hereof.

All returns and payment made by a taxpayer who applied to participate in the NAP are deemed final and conclusive, and by applying to participate in the NAP, the taxpayer shall be deemed to have waived all of his rights to claim any refund pertaining thereto.

Only taxpayers whose annual income tax returns were not amended may apply to participate in the NAP. In the event the amount of taxes paid shall not be sufficient to qualify a taxpayer for the NAP, he may still qualify by making a voluntary payment in amount not less than the deficiency required for him to qualify. Provided, that said payment shall be non-refundable nor deductible against his income. Provided, further, that said voluntary payment shall form part of the base of the tax year for which it was for purposes of determining his qualification for NAP in the subsequent tax year."

SECTION 5. EFFECTIVITY CLAUSE.

These Regulations shall take effect immediately after publication hereof in any newspaper of general circulation.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue