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

October 12, 2005

REVENUE REGULATIONS NO 18 - 2005

SUBJECT : ENHANCED VOLUNTARY ASSESSMENT PROGRAM (EVAP) FOR TAXABLE YEAR 2004 AND PRIOR YEARS UNDER CERTAIN CONDITIONS

TO : All Internal Revenue Officers and Others Concerned.

Pursuant to Section 244, in relation to Sections 6, 255, 204, 254, 256, and other pertinent provisions of the National Internal Revenue Code (NIRC), these Regulations are hereby promulgated to provide for the policies, procedures and guidelines in the implementation of EVAP for the collection of additional tax revenue, which could otherwise be collected through audit and enforcement efforts.

The program covers all types of taxes including taxes for one-time transactions, and may be availed of by qualified taxpayers on a per tax-type basis.

POLICY STATEMENT

To maximize revenue collection with least administration costs, to encourage voluntary tax compliance, and to maintain harmonious relation with taxpayers by minimizing inconvenience relative to investigation, the taxpaying public is hereby granted the opportunity to avail of the privilege of last priority in audit under this Program in accordance with the rules herein prescribed.

SECTION 1. COVERAGE. — The privilege of last priority in audit and investigation herein granted shall apply to all internal revenue taxes covering the taxable year ending December 31, 2004 and all prior years, including one-time transactions such as estate tax, donor's tax, capital gains tax, expanded withholding tax and documentary stamp tax on the transfer, sale, exchange, or disposition of assets.

This Program shall likewise cover taxpayers enjoying preferential tax treatment.

Any person, natural or juridical, including estates and trusts, liable to pay any of the above-cited internal revenue taxes for the above specified period/s who, due to inadvertence or otherwise, erroneously paid his/its internal revenue tax liabilities or failed to file tax returns/pay taxes, may avail of the EVAP, except those falling under any of the following instances:

a. Those taxpayers who have already been issued a Final Assessment Notice (FAN) on or before the effectivity of these regulations with respect to the internal revenue taxes applicable to the taxable period(s) covered by the FAN;
b. Persons under investigation as a result of verified information filed by a Tax Informer under Section 282 of the NIRC, duly processed and recorded in the BIR Official Registry Book on or before the effectivity of these regulations;
c. Tax fraud cases filed and pending in the Department of Justice or in the courts for adjudication;
d. Those with unpaid tax liability as admitted and reflected in the books of accounts/records, or financial statements and tax returns of the covered period, with respect to the tax type covered by the said admitted tax liability, unless they first pay the same (i.e., DST payable, withholding tax payable, and unpaid individuals' second installment of income tax, etc.); and
e. Cases handled by the Bureau of Internal Revenue under the RATE Program.

If an LN or a FAN is issued to the taxpayer after qualifying for the EVAP, the LN/FAN shall be considered cancelled, except as otherwise provided in these regulations.

SECTION 2. TAXPAYER'S BENEFIT FROM AVAILMENT OF THE EVAP. — A taxpayer who has availed of the EVAP shall not be audited except upon prior authorization and approval of the Commissioner of Internal Revenue when there is strong evidence or finding of understatement in the payment of a taxpayer's correct tax liability by more than thirty percent (30%) as supported by a written report of the appropriate office stating in detail the facts and the law on which such finding is based: Provided, however, that any EVAP payment should be allowed as tax credit against the deficiency tax due, if any, in case the concerned taxpayer has been subjected to tax audit.

Audit of taxpayers shall automatically be suspended upon filing of application and payment of the EVAP amount. However, if the audit case is prescribing within six (6) months from date of application and payment of the EVAP, the availment should be evaluated within 5 days from receipt of the payment to determine its qualification hereunder. If after evaluation, the taxpayer has been disqualified under these regulations, the audit shall be revived and should proceed accordingly.

Letters of Authority (LAs)/Audit Notices (ANs), Letter Notices (LNs), Taxpayer Verification Notices (TVNs) and Mission Orders (MOs) shall be cancelled and withdrawn for EVAP availments with issued Certificate of Qualification.

The suspension of audit/investigation and the cancellation of the authority to audit/investigate, shall be on a per tax type basis or only on the kind of tax covered by the EVAP availment.

Before any LA/AN, LN, TVN or MO is issued against a taxpayer for the taxable year/s covered by EVAP, it is incumbent upon the investigating office to ensure that the taxpayer has not validly availed of the EVAP.

SECTION 3. CONDITIONS FOR AVAILMENT AND MANNER OF COMPUTING THE EVAP AMOUNT. — The EVAP applicant-taxpayer shall signify his intention to avail of last priority in the audit and investigation by filing his application and paying the EVAP amount with the appropriate BIR collection agent [Accredited Agent Bank (AAB) or Revenue Collection Officer (RCO)/Deputized Municipal Treasurer (DMT), in the absence of AAB] using BIR Forms to be prescribed by the Commissioner subject to the following conditions:

a) **Computation of EVAP amount payable.** — The EVAP amount to be paid shall be the higher amount between the result in condition no. (1) or the absolute amount in condition no. (2).

Kind of Tax	Condition No. (1) Prescribed Percentage in the Applicable or Covered Taxable Year	Condition No. (2) Minimum EVAP Payment in Absolute Amount Per Taxable Year
I. Income Tax (including payment under MCIT)		
a) With Returns Filed **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Individual - P10,000 • Estate/Trust - P50,000 • Corporation - P100,000 • Large Taxpayers (LTS) -P1,000,000 • Taxpayers with cases handled by the National Investigation Division -P1,000,000

II. Improperly Accumulated Earnings Tax **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Corporation - P100,000 • Large Taxpayers (LTS) -P1,000,000 • Taxpayers with cases handled by the National Investigation Division -P1,000,000
III. Value Added Tax (VAT) **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero net VAT due in the base year**	• Net VAT due for the applicable/covered year is 20% higher than that of the base year. • Net VAT due is at least 3% of the gross sales/gross receipts of the covered year	• Individual – P20,000 • Estate/Trust – P100,000 • Corporation – P200,000 • Large Taxpayers (LTS)–P2,000,000 • Taxpayers with cases handled by the National Investigation Division -P2,000,000
IV. Percentage Tax **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Individual – P10,000 • Estate/Trust – P50,000 • Corporation – P200,000 • Large Taxpayers (LTS)–P2,000,000 • Taxpayers with cases handled by the National Investigation Division -P2,000,000

V. Excise Tax **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than that of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Individual – P20,000 • Estate/Trust – P100,000 • Corporation – P200,000 • Large Taxpayers (LTS)–P2,000,000 • Taxpayers with cases handled by the National Investigation Division -P2,000,000
VI. Documentary Stamp Tax (DST on business) **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Individual – P10,000 • Estate/Trust – P50,000 • Corporation - P100,000 • Large Taxpayers (LTS) -P1,000,000 • Taxpayers with cases handled by the National Investigation Division -P1,000,000
VII. Withholding Tax on Compensation Payment; Expanded Withholding Tax; Final Withholding of Income Tax; Withholding of Business Tax **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Individual - P10,000 • Estate/Trust - P50,000 • Corporation - P100,000 • Large Taxpayers(LTS) -P1,000,000 • Taxpayers with cases handled by the National Investigation Division -P1,000,000

VIII. Taxpayers under preferential rates (PEZA, SBMA, etc,) **a) With Returns Filed** **b) Without Returns Filed in the covered year** **c) Without Returns Filed or with zero tax due in the base year**	• The total tax due for the applicable/covered year is at least 20% higher than the tax due of the base year. • At least increase of 20% of the declared tax due in the covered year.	• Corporation - P100,000 • Large Taxpayers(LTS)- P1,000,000 • Taxpayers with cases handled by the National Investigation Division -P1,000,000
IX. Taxes on One-Time transaction (Estate Tax, Donor's Tax, Capital Gains Tax, Expanded Withholding Tax , Documentary Stamp Tax on disposition of assets - real property and personal property , including shares of stock) **a) With Returns Filed** **b) Without Returns Filed**	• .Additional payment of 120% of the unpaid tax due for the covered transactions • 120% of the declared unpaid tax due for the covered transactions	
X. Accrued Penalties	• 20 % of the basic tax paid	

The base year mentioned herein shall be the immediately preceeding year.

b) Other Conditions:

b.1 Mode and Treatment of EVAP Payment. — EVAP payments shall not include any tax debit memo, creditable withholding tax and MCIT carry-over. The EVAP payment cannot be used as tax credit in the year of payment as well as in the returns for subsequent year/s nor as a deduction for internal revenue tax purposes. Nonetheless, if despite EVAP availment, tax audit is conducted on the covered year under the circumstances allowed by this Regulations, the EVAP payment shall be credited against the deficiency tax after audit.

It is to be noted, however, that EVAP availment is not an admission on the part of the taxpayer of erroneous payment of the tax as well as of failure to file returns and pay the required tax.

b.2 Issuance of the Certificate Authorizing Registration or the Tax Clearance Certificate for Taxes on One-time Transactions. – The Tax Clearance Certificate or the Certificate Authorizing Registration shall be issued in accordance with the procedures prescribed by the Bureau of Internal Revenue after the verification of the taxpayer's compliance of the asset and liability valuation rules as well as evaluation of the documents submitted to substantiate the assets reported and the deductions claimed. The clearance to be issued shall cover only the assets declared by the taxpayer in the tax return/declaration.

SECTION 4. TREATMENT OF INVALID AVAILMENT OF THE NO AUDIT PROGRAM (NAP). –Taxpayers who have applied for NAP but whose availments are found to be invalid may avail of the privilege under this program. Payment under NAP may be credited against the EVAP on a per tax type basis.

SECTION 5. INSTALLMENT PAYMENT. – When the EVAP amount is in excess of Five Million Pesos (Php 5,000,000.00), the taxpayer may elect to pay the tax in three (3) equal installments provided that all installment payments shall be made on or before December 31, 2005.

If any installment is not paid on or before the date fixed for its payment, the whole amount of tax unpaid becomes due and payable together with the delinquency penalties provided for in Section 249 of the NIRC.

Notwithstanding the above terms for installment payment, taxpayers may request in writing an extension for installment payment of EVAP on the ground of financial incapacity. The request shall be approved by the concerned Regional Director/Officer-in-Charge, Large Taxpayers Service upon compliance with the following conditions:

5.1 Taxpayer must submit a list of banks in which he/it maintains bank deposits/accounts;
5.2 Taxpayer must execute a waiver of bank secrecy of deposits thereby authorizing the BIR to inquire into the bank accounts of the taxpayer in order to verify his claim of financial incapacity;
5.3 Taxpayer must submit a written undertaking to pay the EVAP installments within a period not exceeding six (6) months from date of filing his/its EVAP application; and
5.4 Taxpayer must put up a bond corresponding to the installment payments to be made if the tax case is prescribing within six (6) months from the date of filing the EVAP application.

The above requirements must be filed with the Revenue District Office (RDO) having jurisdiction over the taxpayer, or at the Large Taxpayer Service (LTS), in the case of large taxpayers, at the time of the submission of EVAP application form.

SECTION 6. PROCESSING OF APPLICATIONS AND ISSUANCE OF THE CERTIFICATE OF QUALIFICATION. — The Commissioner of Internal Revenue is hereby authorized to issue the necessary and appropriate internal revenue issuances to facilitate implementation of these regulations. All EVAP-Application Forms (AF) and validated EVAP-Payment Form (PF), and such other documents as may be required and duly received by the RDO or LTS shall serve as proof of the taxpayer's availment of EVAP. All EVAP availments made pursuant hereto shall be subject to the review and evaluation of the concerned Regional Office/Large Taxpayer's Service, and upon verification of the correctness of the taxpayer's availment of the privilege of last priority in the audit and investigation, the Regional Director/Officer-in-Charge, Large Taxpayers Service shall issue a Certificate of Qualification for the privileges herein granted. Nonetheless, if the review reveals deficiencies or defects in the EVAP availment, the reviewing BIR Office shall inform the originating BIR Office to require the taxpayer to comply, correct or rectify the deficiencies or defects. Upon completion of all the requirements and satisfaction of all the conditions, the Certificate of Qualification shall be issued.

The EVAP availment shall be reviewed within thirty days from date of application and payment and the resulting Certificate of Qualification or Notice of Disqualification, whichever is applicable, shall accordingly be issued. Taxpayer who has received a Notice of Disqualification may appeal the same to the Assessment Service, through the Assessment Programs Division, whose recommendation shall be subject to approval by the Commissioner after review by the Deputy Commissioner, Operation Group.

Selected EVAP availments may be subjected to post audit by the Assessment Service to check the competence and efficiency of the processing BIR personnel.

SECTION 7. DEADLINE FOR AVAILMENT. — This Program is valid until December 30, 2005.

SECTION 8. EFFECTIVITY CLAUSE. — These Regulations shall take effect after fifteen days (15) days following publication in any newspaper of general circulation.

(Original Signed)
MARGARITO B. TEVES
Secretary of Finance

Recommending Approval:

(Original Signed)
JOSE MARIO C. BUÑAG
OIC-Commissioner of Internal Revenue