Republic of the Philippines
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 13, 2010

REVENUE REGULATIONS NO. 9-2010

SUBJECT : **Providing for Policies and Guidelines for the Abatement of Surcharges and/or Compromise Penalties in Relation to the Filing of Tax Returns and Payment of Taxes under Certain Conditions**

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

Section 1. Background. - The Run After Tax Evaders (RATE) Program is being implemented by the Department of Finance (DOF) and Bureau of Internal Revenue (BIR) to investigate and prosecute individuals and/or entities engaged in tax evasion and other criminal violations of the National Internal Revenue Code of 1997 (Code), as amended. In line with this program, the BIR has adopted the policy to deter, to the greatest possible degree, tax evasion practices and to encourage voluntary compliance with the internal revenue tax laws.

Recently, various taxpayers have expressed their willingness to voluntarily file and pay taxes and/or rectify the returns they have previously filed and pay any and all deficiency taxes and increments thereto, but at the same time, they requested for the abatement of corresponding surcharges and/or compromise penalties.

Sec. 2. Scope of Abatement of Surcharges and/or Compromise Penalties. - In view of the foregoing, and in the exercise of the power granted to the Commissioner of Internal Revenue under Section 204(B)(2), in relation to Section 7(c) of the Code, as amended, the following shall be allowed for the period beginning from the effectivity of these Regulations until October 29, 2010:

A. **Filing of Original Tax Returns**. - Taxpayers who failed to file their returns and/or pay the correct taxes due may file their returns and pay the deficiency taxes due, inclusive of interests. No surcharges as mandated under Section 248 of the Code, as amended, and compromise penalty prescribed under Revenue Memorandum Order (RMO) No. 19-2007 shall be imposed, provided that the following conditions are complied with:

   i. The return is filed and the full payment of the tax, inclusive of interest due thereon, is received by the BIR not later than October 29, 2010;

   ii. No Letter of Authority (LA), Tax Verification Notice (TVN), Audit Notice (AN), Letter Notice (LN), or discrepancy notices of whatever nature has/have been served on the taxpayer concerned for the tax period for which a return is being filed for pursuant to Section 6(A) of the Code, as amended;

   iii. The tax type involved is not the subject of any pending criminal case for tax evasion and other criminal offenses under the Code, as amended, filed in court

or in the Department of Justice (DOJ) or subject of final and executory judgment by court;

iv. If the return or deficiency tax payment arises from or relates to an importation, the taxpayer must file the return and pay the tax to the BIR; and

v. The taxpayer shall execute a Declaration of Availment of Abatement under these Regulations (**Annex A)** with the following attachments:

a) Photocopy of the return filed together with attachments required under pertinent revenue issuances; and
b) Proof of payment of taxes

B. **Filing of Amended Tax Returns.** - Taxpayers who desire to rectify their returns and pay the correct taxes due may file amended returns and pay the deficiency taxes due thereon, inclusive of interests on the upward adjustments. No compromise penalty prescribed under RMO No. 19-2007 shall be imposed provided that the following conditions are complied with:

i. The amended return is filed and the full payment of the deficiency tax, inclusive of interest due thereon, is received by the BIR not later than October 29, 2010;

ii. The amendment made on the return involves an upward adjustment of the amount pertaining to the gross sales/revenues/receipts and/or a downward adjustment of deductions from the gross revenue/receipts or reduction in tax credits; or upward adjustments of both gross sales/revenues/receipts and deductions; provided that in all cases, the amendment or adjustment will result to an additional tax payment;

iii. No LA, TVN, AN, LN, or discrepancy notices of whatever nature has/have been served on the taxpayer concerned for the tax period for which an amendment is being filed for pursuant to Section 6(A) of the Code, as amended;

iv. The return to be amended and/or the tax type involved is not the subject of any pending criminal case for tax evasion and other criminal offenses under the Code, as amended, filed in court or in the DOJ or subject of final and executory judgment by court;

v. If the amended return or deficiency tax payment arises from or relates to an importation, the taxpayer must file the amended return and pay the tax to the BIR; and

vi. The taxpayer executes a Declaration of Availment of Abatement under these Regulations (**Annex A**) with the following attachments:

a) Photocopy of the original return filed and proof of payment of taxes;
b) For amended returns arising from or relating to an importation - proof of previous payments of duties and taxes paid to the Bureau of Customs (BOC);
c) Photocopy of the amended return filed together with attachments required under pertinent revenue issuances; and
d) Proof of payment of taxes for the amended tax return.

The Declaration of Availment of Abatement (Declaration) under these Regulations (**Annex A**) shall be accomplished in triplicate (3) copies and filed on a per tax type and per taxable period basis:

Original and duplicate	- BIR
Triplicate	- Taxpayer

Sec. 3. Limitations. - The filing of original returns/amended returns and payment of deficiency taxes made pursuant to these Regulations presupposes full and accurate disclosure by the taxpayer, and shall not preclude the BIR from investigating the correctness of such returns or sufficiency of the attachments, and/or prosecuting criminal violations in appropriate cases under the Code, as amended.

Sec. 4. Procedures. - The original returns/amended returns shall be filed with and the corresponding tax paid to an Authorized Agent Bank (AAB) or Revenue Collection Officer (RCO) within the revenue district where the taxpayer is registered or is required to register, except for eFPS-enrolled taxpayers which are required to follow specific eFPS regulations.

All taxpayers who shall avail of the privileges under these Regulations shall submit the Declaration in three (3) copies, together with the attachments prescribed in Sections 2(A)(v) and 2(B)(vi) hereof, with the Revenue District Office (District)/Large Taxpayers District Office (LTDO)/Large Taxpayers Division (LT Division) where he is registered or is required to register, after payment of the taxes and interests.

All concerned offices shall mandate their respective "Officers-of-the-Day" to receive the Declarations together with the returns/amended returns filed and other required attachments under these Regulations and to conduct preliminary evaluation/processing (e.g., check mathematical computation, ascertain sufficiency of documentary requirements, etc.). In case of any deficiency tax or insufficiency of documentary requirements, the "Officers-of-the-Day" shall immediately communicate in writing such findings, through registered mail with return card, to the taxpayer and require additional payment and/or submission of lacking required documents, as the case may be, within forty eight (48) hours from receipt of the notification. If the taxpayer fails to comply within forty eight (48) hours, he shall be presumed not to have opted to avail of the privileges under these Regulations.

In case no deficiencies/insufficiencies are found, the "Officers-of-the-Day" shall immediately forward the Declarations, together with the required attachments and the original return/amended return (if applicable), to their respective Revenue District Officers (RDOs)/ LTDO or LT Division Chiefs for appropriate review. If approved, the RDOs/LTDO or LT Division Chiefs shall immediately endorse the two (2) copies of the Declarations to the Office of the Commissioner (OCIR). The original copy of the Declaration shall be endorsed together with the duplicate original copy of the return/amended return (if applicable) including the required attachments, and the duplicate copy of the Declaration shall be endorsed together with the photocopy of the said attachments.

In all cases, the RDOs/LTDO or LT Division Chiefs shall endorse to the OCIR said Declarations with complete attachments not later than five (5) working days from receipt thereof from the taxpayers. The RDOs/LTDO or LT Division Chiefs shall also submit to the OCIR a monthly summary report on or before the 5th day of the following month in the format prescribed in **Annex B** hereto.

For estate tax, donor's tax, and capital gains tax returns, the Certificate Authorizing Registration (CAR) shall be issued by the concerned offices after the approval of the

Declaration by the Commissioner of Internal Revenue (Commissioner) pursuant to Section 204(B)(2), in relation to Section 7(c), of the Code, as amended.

Sec. 5. Processing Time. - The Declaration should be acted upon by the evaluating/processing officers (designated "Officers-of-the-Day") and by the reviewing officers (RDOs/LTDO or LT Division Chiefs) within two (2) days from their receipt thereof. The TWC and OCIR have thirty (30) days within which to act on the Declaration. If the matter is not acted upon within thirty (30) days, the abatement shall be deemed duly approved.

Sec. 6. Technical Working Committee. - The Commissioner shall constitute a Technical Working Committee (TWC) for the review of all Declarations filed by availing taxpayers.

The TWC shall send a notification to the concerned taxpayer that the availment of abatement under these Regulations was approved/disapproved by the Commissioner. In case of approval or disapproval, the TWC shall issue a certification of the acceptance and approval or a notice of disapproval thereof in three (3) copies and in the format prescribed in **Annex C** or **Annex C-1** hereto. The original copy of the certificate of acceptance and approval or notice of disapproval shall be communicated to the taxpayer concerned, while the other two (2) copies shall be attached to the dockets containing the original and duplicate Declarations. The docket of the original Declaration shall be forwarded to the District/LTDO or LT Division concerned for proper disposition and the issuance of a Certificate Authorizing Registration (if applicable). The TWC shall retain the other docket containing the duplicate Declaration.

After the implementation of these Regulations, the TWC shall prepare a consolidated report to the Commissioner on approved and denied availments of abatements in the format prescribed in **Annex D** hereto.

Sec. 7. Effectivity. - These Regulations shall take effect immediately after publication in two (2) leading newspapers of general circulation.

Approved by:

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommending Approval:

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue