

2019年2月号 Tax Amnesty Act の公表について

2019年2月14日に大統領によって Tax Amnesty 法案が承認されました。しかし、大統領の拒否権発動により本法案の一部が否認されています。今月のメールマガジンでは、本法の最終決定された内容を説明します。

① Estate Tax Amnesty (相続税についての Amnesty)

- ・ 対象とその Amnesty の内容；

対象者は2017年12月31日以前に死亡した者の相続に対する相続税については、未申告もしくは死亡時に適用されるルールによって計算された財産の額について、6%の税額を支払う事で完了。

- ・ Amnesty の期間；

本ルールが適用になった日から2年間有効

② Tax Amnesty on Delinquencies (延滞についての Amnesty)

- ・ 対象とその Amnesty の内容；

- BIR より最終通知が行われているが、納税者の支払い能力の問題のため、妥協の要求が行われているものについては、本税 (Surcharge 及び Interest は含まれない) の40%を支払う事で完了。

- 1997年制定の NIRC に基づく DOJ もしくはその他刑事裁判として係争中のものについては、本税の50%を支払う事で完了。

- 本ルールが適用となる前に裁判所によって最終判断が行われている税務裁判事例については、本税の60%を支払う事で完了。

- 源泉徴収義務者が源泉税を徴収していたものの、その納税を怠っていたものについては、本税の100%を支払う事で完了。

- ・ Amnesty の期間；

本ルールが適用になった日から1年間有効

③ General Tax Amnesty and all related provisions

本法案のもっとも注目されていた部分であった General Tax Amnesty は大統領の拒否権発動により否認されています (後添付資料参照)。この理由として大統領は適切なセーフガードを設けない状態での Tax Amnesty は過剰であり、結果として脱税を急増させる恐れがあるとしています。2006年に実施された Tax Amnesty においては、セーフガードの設定なしに行われたため、多額の税務損失を生み出したと主張しています。そのため、大統領は、セーフガードと歳入確保の両方の目的を果たす別の General Tax Amnesty 法案の策定を推奨しています。

上記記載のとおり、本法案にて最も注目をされていた General Tax Amnesty は拒否権発動により否認されています。しかし、大統領からは修正された形での法案の再考の要望が出ていることもあり、今後の動向が注目されています。

この記事は2019年2月現在の情報を基に執筆されたものであり、内容の正確性については細心の注意を払っておりますが、保証をするものではありません。最新情報及び具体的な相談に関してはお問い合わせください。

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しかし、いつ、どのようなものが出るのかは現時点では全くの白紙状態のため、現状は Amnesty に期待することなく適切な納税を実施することが重要です。

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MALACAÑAN PALACE
MANILA

FEB 14 2019

**THE HONORABLE SPEAKER OF THE HOUSE
AND THE LADIES AND GENTLEMEN OF
THE HOUSE OF REPRESENTATIVES**

Ladies and Gentlemen:

In accordance with my firm commitment to uplift the lives of the Filipino people, I sign into law Republic Act (RA) No. **11213**, entitled “**AN ACT ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2017 AND PRIOR YEARS WITH RESPECT TO ESTATE TAX, OTHER INTERNAL REVENUE TAXES, AND TAX ON DELINQUENCIES**” or the **Tax Amnesty Act**.

I. GENERAL COMMENTS

Today marks a new beginning in our government’s effort to improve tax administration and compliance as we welcome the passage of the tax amnesty law. The law is meant to complement Republic Act No. 10963 or the *Tax Reform for Acceleration and Inclusion (TRAIN)*.

TRAIN allowed the adjustment of our tax laws to be simpler, fairer, and more efficient moving forward but this currently excludes those burdened with outstanding tax liabilities. The tax amnesty will help unburden them by forgiving past liabilities and will allow the government to raise revenues for our priority infrastructure and social programs.

With this law, taxpayers will be given an opportunity to settle outstanding tax liabilities and start anew. Likewise, the settlement of long idle estate properties will help those affected to move forward and spur economic growth in the Philippines.

This momentous achievement would not be possible without the collective effort of our legislators in the 17th Congress, in particular the Chairpersons of the House Committee on Ways and Means and the Senate Committee on Ways and Means, and the capable leadership of both Houses of Congress.

II. DIRECT VETO

By the power vested in me by Article 6, Section 27 (2) of the Constitution, which provides that “the President shall have the power to veto any particular items in an appropriation, revenue or tariff bill,” I am constrained to hereby register the following line item vetoes to this law:

A. Grant of a general tax amnesty

I am constrained to veto item (b) of Section 2, items (d) and (e) of Section 3, and the entire Title III of the enrolled bill which grant a general amnesty for all unpaid internal revenue taxes, to wit:

1. *Section 2, item (b)*

“(B) BROADEN THE TAX BASE BY OFFERING A GENERAL TAX AMNESTY FOR ALL UNPAID INTERNAL REVENUE TAXES THAT WILL HELP CLEANSE, ORGANIZE, AND IMPROVE THE BUREAU OF INTERNAL REVENUE’S DATABASE;”

2. *Section 3, items (d) and (e)*

“(D) STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH REFERS TO A DECLARATION OF THE ASSETS, LIABILITIES, AND NETWORTH AS OF DECEMBER 31, 2017, AS FOLLOWS:

(1) ASSETS WITHIN OR WITHOUT THE PHILIPPINES, WHETHER REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, WHETHER OR NOT USED IN TRADE OR BUSINESS: PROVIDED, THAT PROPERTY OTHER THAN MONEY SHALL BE VALUED AT THE COST AT WHICH THE PROPERTY WAS ACQUIRED: PROVIDED, FURTHER, THAT FOREIGN CURRENCY ASSETS AND/OR SECURITIES SHALL BE VALUED AT THE RATE OF EXCHANGE PREVAILING AS OF THE DATE OF THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH;

(2) ALL EXISTING LIABILITIES WHICH ARE LEGITIMATE AND ENFORCEABLE, SECURED OR UNSECURED, WHETHER OR NOT INCURRED IN TRADE OR BUSINESS; AND

(3) THE NETWORTH OF THE TAXPAYER, WHICH SHALL BE THE DIFFERENCE BETWEEN THE TOTAL ASSETS AND TOTAL LIABILITIES.

(E) TOTAL ASSET REFERS TO THE AMOUNT OF THE AGGREGATE ASSETS WHETHER WITHIN OR WITHOUT THE PHILIPPINES, REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, OR ORDINARY OR CAPITAL.”

3. *Entire Title III*

**TITLE III
GENERAL TAX AMNESTY**

SEC. 10. COVERAGE. – THERE IS HEREBY AUTHORIZED AND GRANTED A TAX AMNESTY, HEREINAFTER CALLED GENERAL TAX AMNESTY, WHICH SHALL COVER ALL NATIONAL INTERNAL REVENUE TAXES SUCH AS, BUT NOT LIMITED TO, INCOME TAX, WITHHOLDING TAX, CAPITAL GAINS TAX, DONOR’S TAX, VALUE-ADDED TAX, OTHER

PERCENTAGE TAXES, EXCISE TAX AND DOCUMENTARY STAMP TAX COLLECTED BY THE BUREAU OF INTERNAL REVENUE, INCLUDING VALUE-ADDED TAX AND EXCISE TAXES COLLECTED BY THE BUREAU OF CUSTOMS FOR TAXABLE YEAR 2017 AND PRIOR YEARS, WITH OR WITHOUT ASSESSMENTS DULY ISSUED THEREFOR, THAT HAVE REMAINED UNPAID: *PROVIDED, HOWEVER*, THAT THE GENERAL TAX AMNESTY HEREBY AUTHORIZED AND GRANTED SHALL NOT COVER PERSONS OR CASES ENUMERATED UNDER SECTION 16 AND TITLE IV HEREOF.

SEC. 11. ENTITLEMENT UNDER THE GENERAL TAX AMNESTY. – EXCEPT FOR THE INSTANCES COVERED IN SECTION 16 HEREOF, ANY PERSON, WHETHER NATURAL OR JURIDICAL, MAY ENJOY THE IMMUNITIES AND PRIVILEGES OF THE GENERAL TAX AMNESTY BY PAYING, AT THE TAXPAYER’S OPTION, AN AMNESTY TAX AT:

- I. THE RATE OF TWO PERCENT (2%) BASED ON THE TAXPAYER’S TOTAL ASSETS AS OF DECEMBER 31, 2017 AS DECLARED IN THE STATEMENT OF TOTAL ASSETS; OR
- II. BASED ON THE TAXPAYER’S TOTAL NETWORTH AS OF DECEMBER 31, 2017, AS DECLARED IN THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH FILED PURSUANT TO SECTION 12 HEREOF AND IN ACCORDANCE WITH THE FOLLOWING SCHEDULE OF AMNESTY TAX RATES AND MINIMUM AMNESTY TAX PAYMENTS REQUIRED:

(A) INDIVIDUAL (WHETHER RESIDENT OR NONRESIDENT CITIZENS, INCLUDING RESIDENT OR NONRESIDENT ALIENS), TRUSTS AND ESTATES 5% OR P75,000, WHICHEVER IS HIGHER.

(B) CORPORATIONS

(1) WITH SUBSCRIBED CAPITAL OF ABOVE P50 MILLION 5% OR P1,000,000, WHICHEVER IS HIGHER.

(2) WITH SUBSCRIBED CAPITAL OF ABOVE P20 MILLION UP TO P50 MILLION 5% OR P500,000, WHICHEVER IS HIGHER.

(3) WITH SUBSCRIBED CAPITAL OF P5 MILLION UP TO P20 MILLION 5% OR P250,000, WHICHEVER IS HIGHER.

(4) WITH SUBSCRIBED CAPITAL OF BELOW P5 MILLION 5% OR P100,000, WHICHEVER IS HIGHER.

(C) OTHER JURIDICAL ENTITIES, INCLUDING, BUT NOT LIMITED TO, COOPERATIVES AND FOUNDATIONS, THAT HAVE BECOME TAXABLE AS OF DECEMBER 31, 2017 5% OR P75,000, WHICHEVER IS HIGHER:

PROVIDED, THAT IF THE TAXPAYER OPTS TO PAY THE AMNESTY TAX BASED ON TOTAL NETWORTH AND THE COMPUTED NETWORTH IS NEGATIVE, THE TAXPAYER MAY STILL AVAIL OF THE BENEFITS OF TAX AMNESTY UNDER THIS TITLE, AND PAY THE MINIMUM AMNESTY TAX.

SEC. 12. AVAILMENT OF THE GENERAL TAX AMNESTY; WHEN AND WHERE TO FILE AND PAY. - ANY PERSON, NATURAL OR JURIDICAL, WHO WISHES TO AVAIL OF THE GENERAL TAX AMNESTY SHALL, WITHIN ONE (1) YEAR FROM THE EFFECTIVITY OF THE IMPLEMENTING RULES AND REGULATIONS, FILE WITH THE APPROPRIATE OFFICE OF THE BUREAU OF INTERNAL REVENUE, WHICH HAS JURISDICTION OVER THE TAXPAYER, A SWORN GENERAL TAX AMNESTY RETURN ACCOMPANIED BY A NOTARIZED STATEMENT OF TOTAL ASSETS OR NOTARIZED STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH, AS THE CASE MAY BE, AS OF DECEMBER 31, 2017. THE PAYMENT OF THE AMNESTY TAX SHALL BE MADE AT THE TIME THE RETURN IS FILED:

PROVIDED, THAT THE REVENUE DISTRICT OFFICER SHALL ISSUE AND ENDORSE AN ACCEPTANCE PAYMENT FORM, IN SUCH FORM AS MAY BE PRESCRIBED IN THE IMPLEMENTING RULES AND REGULATIONS OF THIS ACT AUTHORIZING THE AUTHORIZED AGENT BANK, OR IN THE ABSENCE THEREOF, THE REVENUE COLLECTION AGENT OR MUNICIPAL TREASURER CONCERNED, TO ACCEPT THE AMNESTY TAX PAYMENT:

PROVIDED, FURTHER, THAT THE AVAILMENT OF THE GENERAL TAX AMNESTY AND THE ISSUANCE OF THE CORRESPONDING ACCEPTANCE PAYMENT FORM DO NOT IMPLY ANY ADMISSION OF CRIMINAL, CIVIL OR ADMINISTRATIVE LIABILITY ON THE PART OF THE AVAILING TAXPAYER:

PROVIDED, FURTHERMORE, THAT IF THE TAX AMNESTY IS AVAILED BASED ON THE PERIOD INDICATED HEREUNDER, THE TAXPAYER SHALL BE ENTITLED TO THE CORRESPONDING REDUCTION IN THE TOTAL AMNESTY TAX DUE:

A. IF PAID ON OR BEFORE THE END OF THE THIRD CALENDAR MONTH FROM THE EFFECTIVITY OF THE IMPLEMENTING RULES AND REGULATIONS..... 20%;

B. IF PAID AFTER THE END OF THE THIRD CALENDAR MONTH UNTIL THE END OF THE SIXTH CALENDAR MONTH FROM THE EFFECTIVITY OF THE IMPLEMENTING RULES AND REGULATIONS15%; AND

C. IF PAID AFTER THE END OF THE SIXTH CALENDAR MONTH UNTIL THE END OF THE NINTH CALENDAR MONTH FROM THE

EFFECTIVITY OF THE IMPLEMENTING RULES AND REGULATIONS
.....10%.

**SEC. 13. CONTENTS OF THE STATEMENT OF TOTAL ASSETS
AND STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH. –**

**A. THE STATEMENT OF TOTAL ASSETS SHALL CONTAIN A
DECLARATION OF THE TOTAL ASSETS AS OF DECEMBER 31, 2017, AS
FOLLOWS:**

**1. ASSETS WITHIN OR WITHOUT THE PHILIPPINES, WHETHER REAL
OR PERSONAL, TANGIBLE OR INTANGIBLE, WHETHER OR NOT USED
IN TRADE OR BUSINESS:**

**(A) REAL PROPERTIES SHALL BE ACCOMPANIED BY A
DESCRIPTION OF THEIR CLASSIFICATION, EXACT LOCATION,
AND VALUED AT ACQUISITION COST, IF ACQUIRED BY
PURCHASE, OR THE ZONAL VALUATION OR FAIR MARKET
VALUE AS SHOWN IN THE SCHEDULE OF VALUES OF THE
PROVINCIAL, CITY OR MUNICIPAL ASSESSORS AT THE TIME OF
INHERITANCE OR DONATION, WHICHEVER IS HIGHER, IF
ACQUIRED THROUGH INHERITANCE OR DONATION;**

**(B) PERSONAL PROPERTIES OTHER THAN MONEY, SHALL BE
ACCOMPANIED BY A SPECIFIC DESCRIPTION OF THE KIND AND
NUMBER OF ASSETS (E.G. AUTOMOBILES, SHARES OF STOCK,
ETC.) OR OTHER INVESTMENTS, INDICATING THE ACQUISITION
COST LESS THE ACCUMULATED DEPRECIATION OR
AMORTIZATION, OR THE CORRESPONDING BOOK VALUE FOR
SHARES OF STOCK, IN PROPER CASES, IF ACQUIRED BY
PURCHASE, OR THE FAIR MARKET PRICE OR VALUE AT THE
DATE OF THE STATEMENT OF TOTAL ASSETS, IF ACQUIRED
THROUGH INHERITANCE OR DONATION;**

**(C) ASSETS DENOMINATED IN FOREIGN CURRENCY SHALL BE
CONVERTED INTO THE CORRESPONDING PHILIPPINE
CURRENCY EQUIVALENT, AT THE RATE OF EXCHANGE
PREVAILING AS OF THE DATE OF THE STATEMENT OF TOTAL
ASSETS; AND**

**(D) CASH ON HAND AND IN BANK IN PESO AS OF THE DATE OF
THE STATEMENT OF TOTAL ASSETS, AS WELL AS CASH ON
HAND AND IN BANK IN FOREIGN CURRENCY, CONVERTED TO
PHILIPPINE PESO AT THE RATE OF EXCHANGE PREVAILING AS
OF THE DATE OF THE STATEMENT OF TOTAL ASSETS.**

**(B) THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH
SHALL CONTAIN A TRUE AND COMPLETE DECLARATION OF ASSETS,
LIABILITIES, AND NETWORTH OF THE TAXPAYER AS OF DECEMBER
31, 2017, AS FOLLOWS:**

1. ASSETS WITHIN OR WITHOUT THE PHILIPPINES, WHETHER REAL OR PERSONAL, TANGIBLE OR INTANGIBLE, WHETHER OR NOT USED IN TRADE OR BUSINESS:

(A) REAL PROPERTIES SHALL BE ACCOMPANIED BY A DESCRIPTION OF THEIR CLASSIFICATION, EXACT LOCATION, AND VALUED AT ACQUISITION COST, IF ACQUIRED BY PURCHASE, OR THE ZONAL VALUATION OR FAIR MARKET VALUE AS SHOWN IN THE SCHEDULE OF VALUES OF THE PROVINCIAL, CITY OR MUNICIPAL ASSESSORS, WHICHEVER IS HIGHER, IF ACQUIRED THROUGH INHERITANCE OR DONATION;

(B) PERSONAL PROPERTIES OTHER THAN MONEY, SHALL BE ACCOMPANIED BY A SPECIFIC DESCRIPTION OF THE KIND AND NUMBER OF ASSETS (E.G. AUTOMOBILES, SHARES OF STOCK, ETC.) OR OTHER INVESTMENTS, INDICATING THE ACQUISITION COST LESS ACCUMULATED DEPRECIATION OR AMORTIZATION, OR THE CORRESPONDING BOOK VALUE FOR SHARES OF STOCK, IN PROPER CASES, IF ACQUIRED BY PURCHASE, OR THE FAIR MARKET PRICE OR VALUE AT THE DATE OF THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH, IF ACQUIRED THROUGH INHERITANCE OR DONATION;

(C) ASSETS DENOMINATED IN FOREIGN CURRENCY SHALL BE CONVERTED INTO THE CORRESPONDING PHILIPPINE CURRENCY EQUIVALENT, AT THE RATE OF EXCHANGE PREVAILING AS OF THE DATE OF THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH; AND

(D) CASH ON HAND AND IN BANK IN PESO AS OF THE DATE OF THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH, AS WELL AS CASH ON HAND AND IN BANK IN FOREIGN CURRENCY, CONVERTED TO PHILIPPINE PESO AT THE RATE OF EXCHANGE PREVAILING AS OF THE DATE OF THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH.

2. ALL EXISTING LIABILITIES, WHICH ARE LEGITIMATE AND ENFORCEABLE, SECURED OR UNSECURED, WHETHER OR NOT INCURRED IN TRADE OR BUSINESS, DISCLOSING OR INDICATING CLEARLY THE NAME AND ADDRESS OF THE CREDITOR AND THE AMOUNT OF THE CORRESPONDING LIABILITY.

3. THE TOTAL NETWORTH OF THE TAXPAYER, WHICH SHALL BE THE DIFFERENCE BETWEEN THE TOTAL ASSETS AND TOTAL LIABILITIES.

SEC. 14. PRESUMPTION OF CORRECTNESS OF THE STATEMENT OF TOTAL ASSETS, AND STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH. - THE STATEMENT OF TOTAL ASSETS, AND THE STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH FILED AT THE OPTION OF THE TAXPAYER, SHALL BE CONCLUSIVELY PRESUMED

AS TRUE, CORRECT, AND FINAL UPON FILING THEREOF, AND SHALL BE DEEMED COMPLETE UPON FULL PAYMENT OF THE AMOUNT DUE.

THE ACCEPTANCE PAYMENT FORM, AND THE GENERAL TAX AMNESTY RETURN SHALL BE SUBMITTED TO THE REVENUE DISTRICT OFFICE AFTER COMPLETE PAYMENT. THE COMPLETION OF THESE REQUIREMENTS SHALL BE DEEMED FULL COMPLIANCE WITH THE PROVISIONS OF THIS ACT. A CERTIFICATE OF AVAILMENT OF THE GENERAL TAX AMNESTY SHALL BE ISSUED BY THE BUREAU OF INTERNAL REVENUE WITHIN FIFTEEN (15) CALENDAR DAYS FROM SUBMISSION TO THE BUREAU OF INTERNAL REVENUE OF THE ACCEPTANCE PAYMENT FORM AND THE GENERAL TAX AMNESTY RETURN. OTHERWISE, THE DUPLICATE COPIES, STAMPED AS RECEIVED, OF THE ACCEPTANCE PAYMENT FORM, AND THE GENERAL TAX AMNESTY RETURN SHALL BE DEEMED AS SUFFICIENT PROOF OF AVAILMENT.

SEC. 15. *IMMUNITIES AND PRIVILEGES.* – THOSE WHO AVAIL OF THE GENERAL TAX AMNESTY AND HAVE FULLY COMPLIED WITH ALL THE CONDITIONS SET FORTH IN THIS ACT AND UPON PAYMENT OF THE AMNESTY TAX SHALL BE ENTITLED TO THE FOLLOWING IMMUNITIES AND PRIVILEGES:

(A) WITH RESPECT TO THE YEARS COVERED BY THE TAX AMNESTY, THE TAXPAYER SHALL BE IMMUNE FROM THE PAYMENT OF TAXES, AS WELL AS ADDITIONS THERETO, AND FROM ALL APPURTENANT CIVIL, CRIMINAL, AND ADMINISTRATIVE CASES AND PENALTIES UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, ARISING FROM THE FAILURE TO PAY ANY AND ALL INTERNAL REVENUE TAXES FOR TAXABLE YEAR 2017 AND PRIOR YEARS AND FROM SUCH OTHER INVESTIGATIONS OR SUITS INSOFAR AS THEY RELATE TO THE ASSETS, LIABILITIES, NETWORTH AND INTERNAL REVENUE TAXES THAT ARE SUBJECT OF THE TAX AMNESTY.

(B) ANY INFORMATION OR DATA CONTAINED IN, DERIVED FROM OR PROVIDED BY A TAXPAYER IN THE TAX AMNESTY RETURN, STATEMENT OF TOTAL ASSETS OR STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH, AS THE CASE MAY BE, AND APPURTENANT DOCUMENTS SHALL BE CONFIDENTIAL IN NATURE AND SHALL NOT BE USED IN ANY INVESTIGATION OR PROSECUTION BEFORE ANY JUDICIAL, QUASI-JUDICIAL AND ADMINISTRATIVE BODIES. HOWEVER, THE TAXPAYER MAY USE THIS AS A DEFENSE, WHENEVER APPROPRIATE, IN CASES BROUGHT AGAINST THE TAXPAYER.

(C) THE BOOKS OF ACCOUNTS AND OTHER RECORDS OF THE TAXPAYER FOR THE YEARS COVERED BY THE TAX AMNESTY AVAILED OF SHALL NOT BE EXAMINED BY THE BUREAU OF INTERNAL REVENUE: *PROVIDED*, THAT THE COMMISSIONER OF

INTERNAL REVENUE MAY AUTHORIZE IN WRITING THE EXAMINATION OF THE SAID BOOKS OF ACCOUNTS AND OTHER RECORDS TO VERIFY THE VALIDITY OR CORRECTNESS OF A CLAIM FOR ANY TAX REFUND, TAX CREDIT (OTHER THAN REFUND OR CREDIT OF TAXES WITHHELD ON WAGES), TAX INCENTIVES, AND/OR EXEMPTIONS UNDER EXISTING LAWS.

ALL THESE IMMUNITIES AND PRIVILEGES SHALL NOT APPLY WHEN THE TAXPAYER FAILED TO FILE A GENERAL TAX AMNESTY RETURN AND A STATEMENT OF TOTAL ASSETS, OR STATEMENT OF ASSETS, LIABILITIES, AND NETWORTH, AS THE CASE MAY BE.

UPON FULL COMPLIANCE WITH ALL THE CONDITIONS SET FORTH IN THIS TITLE AND PAYMENT OF THE CORRESPONDING GENERAL AMNESTY TAX, THE TAX AMNESTY GRANTED UNDER THIS TITLE SHALL BECOME FINAL AND IRREVOCABLE.

SEC. 16. *EXCEPTIONS.* – THE GENERAL TAX AMNESTY UNDER THIS ACT SHALL NOT EXTEND TO THE FOLLOWING:

(A) WITHHOLDING TAX AGENTS WHO WITHHELD TAXES BUT FAILED TO REMIT THE SAME TO THE BUREAU OF INTERNAL REVENUE;

(B) TAXPAYERS WITH CASES PENDING IN APPROPRIATE COURTS INVOLVING:

1. THOSE THAT FALL UNDER THE JURISDICTION OF THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT;
2. UNEXPLAINED OR UNLAWFULLY ACQUIRED WEALTH UNDER REPUBLIC ACT NO. 3019, OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT, AND REPUBLIC ACT NO. 7080 OR AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER;
3. VIOLATIONS OF REPUBLIC ACT NO. 9160, OTHERWISE KNOWN AS THE ANTI-MONEY LAUNDERING ACT, AS AMENDED;
4. TAX EVASION AND OTHER CRIMINAL OFFENSES UNDER CHAPTER II OF TITLE X OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED; AND
5. FELONIES OF FRAUDS, ILLEGAL EXACTIONS AND TRANSACTIONS, AND MALVERSATION OF PUBLIC FUNDS AND PROPERTY UNDER CHAPTERS III AND IV OF TITLE VII OF THE REVISED PENAL CODE;

(C) TAX CASES THAT HAVE BECOME FINAL AND EXECUTORY;
AND

(D) DELINQUENCIES AND ASSESSMENTS THAT HAVE BECOME FINAL AND EXECUTORY.”

While I understand the legislature's objective in proposing an unconditional latitude in the grant of amnesty, I disagree as to the degree granted under the final version of the general amnesty under the enrolled bill.

I believe that, ultimately, the original objective will not be met under the proposed framework. Without the provisions breaking down the walls of bank secrecy, setting the legal framework for us to comply with international standards on exchange of information for tax purposes, and safeguarding against those who abuse the amnesty by declaring an untruthful asset or net worth, a general amnesty that is overgenerous and unregulated would create an environment ripe for future tax evasion, the very thing we wish to address.

Without these measures, the government and ultimately the Filipino people, will incur long term substantial revenue losses. Our experience with the 2006 tax amnesty under Republic Act No. 9480 has shown that without safeguards and measures against tax evasion, the objectives of an amnesty such as raising revenues and expanding the tax base cannot be fully achieved.

The general amnesty program is meant to give taxpayers a fresh start as well as to signal the start of a fair tax enforcement campaign by the tax authorities. It is not meant to be abused for the gain of the few and the loss of the rest of the citizenry. These safeguards against tax evasion are estimated to contribute P76.6 billion to the public funds in the next five (5) years which we hope to use to better our infrastructure and services.

Given these, I ask Congress to pass another general tax amnesty bill that includes the lifting of bank secrecy for fraud cases, the inclusion of automatic exchange of information, and safeguards to ensure that asset or net worth declarations are truthful. With these provisions, the general tax amnesty will meet both its tax administration and revenue purposes.

B. One-time declaration and settlement of estate taxes on properties subject of multiple unsettled estates

Second, I am constrained to veto the proviso in Section 6 of the enrolled bill allowing a one-time declaration and settlement of estate taxes on properties that are in the name of prior decedents or donors whose estates remain unsettled.

“PROVIDED, FURTHER, THAT IF THE ESTATE INVOLVED HAS PROPERTIES WHICH ARE STILL IN THE NAME OF ANOTHER DECEDENT OR DONOR, THE PRESENT HOLDER, HEIRS, EXECUTORS OR ADMINISTRATORS THEREOF SHALL ONLY FILE ONE (1) ESTATE TAX AMNESTY RETURN AND PAY THE CORRESPONDING ESTATE AMNESTY TAX THEREON BASED ON THE TOTAL NET ESTATE AT THE TIME OF DEATH OF THE LAST DECEDENT COVERING ALL ACCRUED TAXES UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, ARISING FROM THE TRANSFER OF SUCH ESTATE

FROM ALL PRIOR DECEDENTS OR DONORS THROUGH WHICH THE PROPERTY OR PROPERTIES COMPRISING THE ESTATE SHALL PASS.”

While I applaud the ingenuity behind the proposal, I believe that there is a need to apply the estate tax amnesty at every stage of the transfer of the property. We must take cognizance of the rules of succession under the Civil Code of the Philippines on the transmission of property, rights, and obligations of decedents. The tax on estates is imposed not because of the property itself but on the *privilege* of transferring the property to the heirs. The flat rate of six (6) percent estate amnesty tax, *without penalties*, imposed at every stage of transfer is more than a fair imposition on the privilege.

Inasmuch as we extend certain benefits to our citizens, the cost to the government must be reasonable. To implement the one-time settlement across multiple estates would erode the expected revenue of the government from the estate tax amnesty.

C. Presumption of Correctness of the Estate Tax Amnesty Returns

Lastly, I am constrained to veto the provision raising the conclusive presumption that estate tax amnesty returns filed in availing of the amnesty are true, correct and final, and complete upon full payment of the amnesty tax. This is under Section 7 of the enrolled bill.

“THE ESTATE TAX AMNESTY RETURNS SHALL BE CONCLUSIVELY PRESUMED AS TRUE, CORRECT, AND FINAL UPON FILING THEREOF, AND SHALL BE DEEMED COMPLETE UPON FULL PAYMENT OF THE AMOUNT DUE.”

The grant of amnesty is a *privilege* that this administration supports without question. However, as with any other privilege, it is open to abuse. I am of the view that we must balance this privilege with *accountability*.

Succession is complex. Beyond the transfer of property, rights, and obligation to the heirs, legatees, and devisees, the valuation of the subject properties is a technical aspect that cannot be left to mere self-declaration. An erroneous valuation not only impacts the revenue for the current estate but will also carry-over to the subsequent transfer of the property regardless if it will be through sale, donation, gift or succession.

Implementing agencies cannot act as mere stamping pads of approval and instead must be empowered to correct apparent misinformation and misdeclaration made in the course of the amnesty. There must be an opportunity to evaluate the truthfulness of the declarations made by the taxpayers. Else, the declarations will be nothing more than pieces of paper, without value or purpose.

III. CLOSING STATEMENT

The Amnesty Law is an important part of this administration's tax reform program and I strongly encourage our taxpayers to avail of the opportunity to wipe the slate clean.

With the estate tax amnesty, long unsettled estates can now be transferred. Without the burden of tax liabilities, the heirs can focus on making idle properties productive thereby bringing economic benefit to their families. The amnesty on delinquency, will help taxpayers failing in their tax obligations to have a fresh start and be free from the civil and criminal consequences of their neglect of their obligations to pay taxes. It is the hope of this administration that with the decongestion of the dockets, our administrative and judicial bodies can focus on resolving cases of more significance.

More than the much-welcomed revenue to be generated by this law, the amnesty is about rebuilding trust between the government and the people – an opportunity for citizens to disclose past failings and for the government to forgive them with the expectation of better compliance in the future.

Very truly yours,



Copy furnished:

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