

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

May 22, 2019

**REVENUE MEMORANDUM CIRCULAR NO. 57-2019**

**SUBJECT : Clarifies Certain Issues on Tax Amnesty on Delinquencies Under Revenue Regulations No. 4-2019 which Implemented Title IV of Republic Act No. 11213 or the Tax Amnesty Act**

**TO : All Revenue Officers, Employees and Others Concerned**

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This Circular is issued to address the frequently-asked questions regarding the Tax Amnesty on Delinquencies pursuant to Title IV of Republic Act (RA) No. 11213, otherwise known as the “Tax Amnesty Act” as implemented by Revenue Regulations (RR) No. 4-2019.

**Q1. Who are qualified to avail of the Tax Amnesty on Delinquencies?**

**A1.** All persons, whether natural or juridical, with delinquent internal revenue tax liabilities covering taxable year 2017 and prior years, on or before April 24, 2019, may avail of Tax Amnesty on Delinquencies within one year from the effectivity of RR No. 4-2019, under any of the following instances:

**A.** Delinquent accounts

1. Delinquent Accounts, whether without or with application for compromise settlement, either on the basis of (a) doubtful validity of the assessment or (b) financial incapacity of the taxpayer, whether the same was denied by or still pending with the Regional Evaluation Board (REB) or the National Evaluation Board (NEB), as the case may be;
2. Delinquent withholding tax liabilities arising from non-withholding of tax; and
3. Delinquent estate tax liabilities.

**B.** With pending criminal cases with the DOJ/Prosecutor’s Office or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the Tax Code, as amended, with or without assessments duly issued;

**C.** With final and executory judgment by the courts; and

**D.** Withholding tax liabilities of withholding agents arising from their failure to remit withheld taxes. (Section 3, RR No. 4-2019)

**Q2. What shall the taxpayer do to avail of the tax amnesty on delinquencies?**

**A2.** Below are the steps in availing the tax amnesty on delinquencies as provided under RR No. 4-2019:

**Step 1.** Secure the certificate of delinquencies/tax liabilities from the concerned BIR Office as provided under Section 5(C) of RR No. 4-2019.

**Step 2.** Present the duly accomplished Tax Amnesty Return (TAR) made under oath and Acceptance Payment Form (APF), together with other required documents, to the concerned RDO/LTD/LTCED for endorsement of the APF, and pay the amnesty amount with the AABs or RCOs, whichever is applicable, by presenting the RDO/LTD/LTCED-endorsed or approved APF.

Provided, that if no payment is required as in the case when assessment consists only of unpaid penalties due to either late filing/payment or other assessed penalties for non-compliance of reportorial requirements, the phrase “no payment required” shall be indicated in the APF.

**Step 3.** Submit/file immediately to the RDO/LTD/LTCED where the taxpayer is registered, in triplicate copies, the duly accomplished TAR, made under oath, together with the complete documentary requirements and proof of payment, which in no case shall be beyond the one (1) year availment period. The taxpayer/applicant shall be furnished with a copy, stamped as received, of said TAR and APF.

**Q3. If the assessment notices pertain to penalties only (i.e. without basic tax assessed), can the taxpayer avail of the tax amnesty?**

**A3.** The taxpayer can avail of the tax amnesty if the penalties pertain to taxable year 2017 and prior years and the assessment notices have become final and executory on or before April 24, 2019.

The taxpayer shall follow the prescribed manner of availment under Section 5 of RR No. 4-2019. However, since the required tax amnesty amount is based on the basic tax assessed, there shall be no amount due for payment.

**Q4. Can tax liabilities which have become final and executory on or before April 24, 2019 and covered by a compromise settlement application that was subsequently denied by either the NEB or REB during the one-year availment period be the subject of the tax amnesty on delinquencies?**

**A4:** Yes, provided the filing of the tax amnesty return together with the complete documentary requirements shall also be made within the one-year availment period.

**Q5. A taxpayer applied for the abatement of penalties of its delinquent tax liabilities. However, the same has been denied by the Commissioner. Can it be the subject of the tax amnesty application? If yes, what shall be the tax amnesty amount?**

**A5.** Yes, the taxpayer can avail of the tax amnesty provided the delinquent tax liabilities pertain to taxable year 2017 or prior years and is already delinquent as of April 24, 2019. For purposes of computation of tax amnesty amount, the basic tax paid under the application for abatement shall be treated as partial payment of the delinquent tax liabilities. Accordingly, since application for abatement requires payment of basic tax in full or 100%, there shall be no tax amnesty amount to be reflected in the Acceptance Payment Form.

**Q6. Taxpayer A wishes to avail of tax amnesty on delinquent accounts pertaining to taxable year 2017. As of December 31, 2018, his basic tax liability is P1 Million. He has pending application for compromise settlement and paid the amount of P500 Thousand equivalent to 50% of the basic tax. If he avails of the tax amnesty on delinquencies which requires payment of 40% of the basic tax only, can the excess amount paid (10%) be refunded?**

**A6.** No, the basis for computing the tax amnesty rate of 40% is the difference of the basic tax assessed less the amount paid as offered in the compromise settlement application. In this case, the taxpayer has to pay P 200,000 equivalent to 40% of the remaining balance of the basic delinquent account amounting to P500,000.00.

**Q7. Can a taxpayer avail of the tax amnesty for 2017 tax liabilities which are currently under investigation pursuant to a Letter of Authority (LOA)?**

**A7.** Since the investigation pursuant to the letter of authority is still on-going, the tax liability, if any, is not yet considered delinquent account and therefore cannot be the subject of tax amnesty on delinquencies.

The requirement that tax liabilities must be delinquent accounts prior to effectivity of RR No. 4-2019, however, does not apply to tax liabilities of withholding agents pertaining to failure to remit withheld taxes for taxable year 2017 and prior years which may be the subject of tax amnesty on delinquencies at any stage/time of investigation for as long the amount of tax liabilities are properly determined by the BIR.

**Q8. If the taxpayer is amenable to the deficiency tax resulting from the audit conducted pertaining to taxable year 2017 and prior years, as presented during the informal conference, can the tax liabilities be settled through availment of tax amnesty on delinquencies?**

**A8.** The tax liabilities as informed during the informal conference are not yet considered delinquent and cannot be the subject of tax amnesty on delinquencies except when the tax liability pertains to unremitted withheld taxes.

**Q9. Can tax amnesty on delinquencies be availed of even if there is no Final Assessment Notice (FAN)/Formal Letter of Demand (FLD)/Final Decision on Disputed Assessment (FDDA) that has become final and executory on or before April 24, 2019?**

**A9.** Tax amnesty on delinquencies can be availed of even if there is no FAN/FLD/FDDA that has become final and executory if the tax liabilities fall under any of the following instances:

- (1) The tax liabilities are related to the pending criminal cases with the DOJ/Prosecutor's Office or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the Tax Code as amended; and
- (2) The tax liabilities pertain to unremitted tax withheld by withholding agents.

**Q10. What would be the basis of the tax amnesty payment if the pending criminal charges of the taxpayer as of April 24, 2019 pertain to "failure to obey summon" but the legal complaint does not have assessment of unpaid basic tax?**

**A10.** When a criminal charge pertains to "failure to obey summon", the legal officer requires the examiner to issue an assessment based on best evidence obtainable. If an assessment has already been issued as of April 24, 2019, whether final or not, the basis of the tax amnesty would be the basic tax per such document. Otherwise, the taxpayer could not avail of the tax amnesty on delinquency.

**Q11. In the scenario under Q10, assuming the assessment issued has already become final and executory as of April 24, 2019, will the tax amnesty rate of forty percent (40%) apply?**

**A11.** No, the tax amnesty rate applicable in this case is sixty percent (60%) since the said tax liability arose from the taxpayer's criminal charge of "failure to obey summon".

**Q12. Still under scenario Q10, what will happen if the taxpayer did not include all the tax liabilities assessed based on best evidence obtainable in the tax amnesty return? Will the taxpayer enjoy the immunities such as the termination of the criminal charges?**

**A12.** No, the criminal liability that may be terminated only relates to the taxes which were included in the TAR.

**Q13. What are the implications of the Tax Amnesty to the current audit being conducted pursuant to a LOA? Will it be suspended?**

**A13.** The current audit will proceed in accordance with the LOA coverage and existing audit procedures. It shall not be suspended.

**Q14. Are open stop-filer cases included in the amnesty?**

**A14.** No, these are not covered under RR No. 4-2019.

**Q15. What will happen to the tax liabilities which were not included in the Certificate of Delinquencies/Tax Liabilities Issued by the concerned BIR office?**

**A15.** These will remain as outstanding tax liabilities of the concerned taxpayer until the same are fully settled. However, if taxpayer has knowledge of any delinquent tax liabilities not otherwise included in the issued certificate, the taxpayer can request for the amended certificate, provided that the copy of the FAN/FLD/FDDA together with the Sworn Declaration of No Protest Filed is submitted to the concerned BIR office.

**Q16. Are registered Notice of Tax Lien (NTL)/Notice of Tax Levy (NOL) in the Transfer Certificate of Title (TCT) lifted or cancelled once the owner availed of the tax amnesty on delinquencies?**

**A16.** Yes, the notices shall be lifted/cancelled based on the tax amnesty availed of and upon issuance of a Lifting Order.

**Q17. A NTL/NOL is annotated in the TCT of a certain property owned by Taxpayer A. The NTL/NOL pertain to delinquent tax liabilities of Taxpayer B, the previous owner of the property. Can Taxpayer A apply for tax amnesty on delinquencies in order to have the NTL/NOL lifted?**

**A17.** Taxpayer A cannot apply for tax amnesty on delinquencies in his own capacity/name since the delinquent tax liabilities pertain to Taxpayer B. For BIR to issue lifting order, the tax liabilities may be settled by Taxpayer A following regular procedure [on cancellation of tax lien](#) which requires full payment of the said delinquent tax liabilities.

**Q18. If the tax liabilities subject of a final and executory judgment by the court pertain to unremitted withheld taxes, will the prescribed fifty percent (50%) be applied for purposes of computing the tax amnesty amount?**

**A18.** The prescribed rate shall be one hundred percent (100%) of the basic tax assessed for all instances of unremitted withheld taxes for taxable year 2017 and prior years. Hence, even if the same are subject of pending or final and executory judgment by the court, or not yet considered delinquent accounts but may properly be determined by the BIR, the tax amnesty rate of one hundred percent (100%) shall apply.

**Q19. Should tax amnesty for different taxable years be availed at once or can it be availed per taxable year or per tax type?**

**A19.** It is advisable for **one TAR** to be filed for tax amnesty application for all tax types and taxable years covered. However, depending on the taxpayer's financial capacity and priorities, the taxpayer may choose to settle the tax liabilities on a per tax type and per taxable year basis within the one year availment period. The immunities will apply only on those tax types/taxable periods with valid tax amnesty availment.

**Q20. Can the tax amnesty amount be paid on installment basis?**

**A20.** No. For purposes of availing tax amnesty, one-time payment of the tax amnesty indicated in the TAR and APF must be made.

**Q21. Is the Notice of Issuance of Authority to Cancel Assessment (NIATCA) sufficient to lift notices of levy and warrants?**

**A21.** No, lifting orders are required to lift the notices of levy and warrants. The lifting orders will be issued after the NIATCA has been approved.

**Q22. Will the tax liabilities covered by a FAN which was timely protested yet withdrawn on or before April 24, 2019 be considered delinquent account qualified for tax amnesty?**

**A22.** If the protest was withdrawn on or before April 24, 2019, the tax liabilities shall be considered delinquent from the date of lapse of the period to protest, as if there is no protest filed. The taxpayer shall be qualified to avail of the tax amnesty on delinquencies provided the delinquent accounts pertain to taxable year 2017 and prior years and the period to protest lapsed on or before April 24, 2019.

**Q23. In relation to question No. 22, what will happen if the protest was withdrawn after April 24, 2019, the effectivity date of RR No. 4-2019?**

**A23.** Since there is a protest filed and it was only withdrawn after April 24, 2019, the tax liabilities stated in the FAN cannot be considered delinquent accounts as of April 24, 2019 and the taxpayer is not qualified to avail of the tax amnesty on delinquencies.

**Q24. Will the pending criminal case of the taxpayer be automatically terminated once the taxpayer availed of the Tax Amnesty on Tax Delinquencies?**

**A24.** No. There is no automatic termination as the taxpayer/respondent/accused has to file a motion to terminate or any equivalent pleading to dismiss the criminal case before the DOJ or the courts, as the case may be, by reason of his/her having availed of the tax amnesty. The availment of tax amnesty is the basis for the termination/dismissal of the criminal case before the Courts/DOJ.

**Q25. What shall be the applicable tax amnesty rate in case there is already a FAN that has become “final and executory” which relates to the pending criminal case filed with the DOJ/Prosecutor’s Office/Courts?**

**A25.** Although the assessment contained in the FAN is final and executory, the tax amnesty rate of sixty percent (60%) of the basic tax assessed shall apply, instead of forty percent (40%), since there is pending criminal case related to the delinquent account.

**Q26. Under RR 4-2019, Preliminary Assessment Notice (PAN)/Notice for Informal Conference (NIC) or equivalent document is sufficient document of the taxpayer to support the tax liabilities pertaining to unremitted tax withheld. What are those equivalent document being referred to?**

**A26.** Equivalent document can be any of the following, provided the same was issued on or before April 24, 2019, and the taxable period involved are 2017 and prior years:

- a. Letter to the withholding agent demanding remittance of the amount not remitted based on the withholding tax returns filed;
- b. Letter to the withholding agent demanding the remittance of tax withheld based on the Commission on Audit (COA) reports, for those subject to COA audit;
- c. Preliminary Collection Letter demanding the payment of tax withheld declared per returns filed

**Q27. Can amended tax return with resulting tax payable be settled through availment of tax amnesty on delinquencies?**

**A27.** No, such case is not covered under the Tax Amnesty on Delinquencies.

**Q28. Can estate tax liabilities for taxable year 2017 and prior years qualify for tax amnesty on delinquencies under RR No. 4-2019?**

**A28.** Yes, provided it falls under any of the following:

- (1) delinquent account;
- (2) subject of pending criminal case with DOJ; or
- (3) subject of judgement by the courts which became final and executory on or before April 24, 2019.

Otherwise it is covered under the estate tax amnesty.

**Q29. Can a taxpayer be considered to have fully complied with the requirements of RR No. 4-2019 if the tax amnesty amount was paid on the last day of the one-year availment period but failed to file the TAR on the same date?**

**A29.** No. Section 5(C) of RR No. 4-2019 provides that availment of tax amnesty on delinquencies shall be considered fully complied with upon the completion of the enumerated steps which includes the filing/submission of the TAR with complete documentary requirements to the concerned office within the one-year availment period.

**Q30. In relation to item 29, what will happen to the tax amnesty amount paid by the taxpayer? Will it be refunded?**

**A30.** The tax amnesty amount shall not be refunded but instead, it shall be treated as partial payment of the taxpayer's delinquent tax liabilities.

**Q31. Are taxpayers with delinquent accounts subject of on-going collection enforcement proceedings, i.e., warrants of garnishment, notice of tax levy, notice of tax lien, notice of**

**encumbrance, etc., covered by the tax amnesty on delinquency? If yes, how shall the tax amnesty amount be computed?**

**A31.** Yes. The required amnesty rate of forty percent (40%) shall be based on the basic tax assessed. If the delinquent tax liabilities are already the subject of the criminal complaint filed in courts, the amnesty rate of sixty percent (60%) shall apply. If the subject tax liabilities pertain to the unremitted tax withheld, the rate of one hundred percent (100%) shall apply.

**Q32. Can a taxpayer avail of the tax amnesty on delinquencies even if there are already garnished/seized properties?**

**A33.** If the garnished/seized properties of the delinquent taxpayer is not sufficient to fully settle the delinquent tax liabilities, the taxpayer may avail of the tax amnesty on delinquencies.

**Q33. How will the tax amnesty amount be computed in case there is garnished amount or seized property/ies resulting from the collection enforcement activities done prior to the effectivity of RR No. 4-2019?**

**A33.** The tax amnesty amount shall be determined in accordance with the following rules:

- A. In case of garnishment, the garnished amount shall first be applied to penalties before the same shall be applied to basic tax per FAN/FLD/FDDA;
- B. In case of seized property/ies:
  - 1. If there is no public auction conducted yet, the value of seized property shall not be deducted from the taxpayer's tax liabilities and the amount of tax amnesty shall still be based on the basic tax assessed per FAN/FLD/FDDA;
  - 2. In case there is a public auction –
    - a. With winning bidder – the proceeds of auction sale less administrative cost incurred in the conduct of public auction shall be applied first to the penalties before the excess shall be applied to the basic tax per FAN/FLD/FDDA;
    - b. Failure of bidding and property was forfeited in favor of the government – the value of the property seized shall not be deducted from the taxpayer's outstanding tax liabilities.

**Illustration A:**

Taxpayer A has income tax liabilities amounting to P 2,800,000.00 pertaining to taxable year 2008, inclusive of penalties amounting to P800,000.00 updated as of



December 31, 2018. Seizure Agent (SA) X garnished Taxpayer A's deposit account with Bank B in the amount of P1,000,000 on January 1, 2019, and likewise issued the Notice of Tax Lien on the taxpayer's real property located at Cavite with Fair Market Value (FMV) of P 400,000.00. The assigned SA was not able to conduct the public auction to date. Upon the effectivity of tax amnesty on delinquencies, taxpayer wanted to avail and requested for the issuance of the Certificate of Delinquency. Assuming Taxpayer A has no other delinquent account, what would be the treatment on the garnished amount and how will the tax amnesty amount be computed?

Basic Tax per FAN/FLD/FDDA		P	2,000,000
Less: Amount garnished	1,000,000		
Less: Amount applied to penalties inclusive of:			
Surcharge	500,000		
Deficiency Interest	100,000		
Compromise Penalty	10,000		
Delinquency Interest	190,000	800,000	200,000
<b>Outstanding Balance of Basic Tax Assessed</b>		<b>P</b>	<b>1,800,000</b>
Multiply by Tax Amnesty Rate			40%
<b>Amount of Tax Amnesty Payment</b>		<b>P</b>	<b>720,000</b>

**\*Note:** The FMV of seized property was not considered in the computation of outstanding tax liabilities and tax amnesty amount.

### Illustration B:

Using the same given facts, what would be the tax amnesty amount if the SA was able to auction the property to a winning bidder in the amount of P600,000.00 with incurred administrative cost of P25,000?

Basic Tax per FAN/FLD/FDDA		P	2,000,000
Less: Amount garnished	1,000,000		
Less: Amount applied to penalties inclusive of:			
Surcharge	500,000		
Deficiency Interest	100,000		
Compromise Penalty	10,000		
Delinquency Interest	190,000	800,000	200,000
Balance			1,800,000
Less: Proceeds from sale of seized property	600,000		
Less Administrative cost	25,000		575,000
<b>Outstanding Balance of Basic Tax Assessed</b>		<b>P</b>	<b>1,225,000</b>
Multiply by Tax Amnesty Rate			40%
<b>Amount of Tax Amnesty Payment</b>		<b>P</b>	<b>490,000</b>

### Illustration C:

Using the same facts under Illustration A, but this time the public auction conducted is a failure since no one bids for the property. Thus, the Bureau declared the property as forfeited in favor of the government. The administrative cost incurred is also at P25,000.00 and the minimum bid price set by the Bureau is P450,000. How will the tax amnesty amount be computed?

Basic Tax per FAN/FLD/FDDA		P	2,000,000
Less: Amount garnished	1,000,000		
Less: Amount applied to penalties inclusive of:			
Surcharge	500,000		
Deficiency Interest	100,000		
Compromise Penalty	10,000		
Delinquency Interest	190,000	800,000	200,000
Outstanding Tax Liabilities			1,800,000
Multiply by Tax Amnesty Rate			40%
<b>Amount of Tax Amnesty Payment</b>		<b>P</b>	<b><u>720,000</u></b>

### Illustration D:

Using the same given facts, except that there is no garnished amount of P1 Million. What would be the tax amnesty amount if the SA was able to auction the property to a winning bidder in the amount of P500,000.00 with incurred administrative cost of P25,000?

Basic Tax per FAN/FLD/FDDA		P	2,000,000
Less: Proceeds from sale of seized property	500,000		
Less: Administrative cost	25,000		
Net Proceeds from sale	475,000		
Less: Amount applied to penalties inclusive of:			
Surcharge	500,000		
Deficiency Interest	100,000		
Compromise Penalty	10,000		
Delinquency Interest	190,000	800,000	
Excess of Penalties over Proceeds from sale	-325,000.00	*	
<b>Outstanding Balance of Basic Tax Assessed</b>		<b>P</b>	<b><u>2,000,000</u></b>
Multiply by Tax Amnesty Rate			40%
<b>Amount of Tax Amnesty Payment</b>		<b>P</b>	<b><u>800,000</u></b>

**\*Note:** The excess of penalties over proceeds from sale of seized property shall not be considered and the tax amnesty amount shall be based on basic tax per FAN/FLD/FDDA.

**Q34. Can a delinquent taxpayer whose property has been auctioned and sold still redeem the auctioned property?**

**A34.** Yes, provided the redemption shall be done within one (1) year from the date of the registration of the Certificate of Sale with the Register of Deeds.

**Q35. In relation to Item 34 above, how can redemption be done if the taxpayer availed of the tax amnesty?**

**A35.** The taxpayer shall be required to pay the bid amount including interest of fifteen percent (15%) per annum computed from the date of sale of up to the date of redemption to the winning bidder, through the concerned BIR office following the procedures on redemption covered by a separate revenue issuance.

**Q36. How can the redemption be done in case the property of the delinquent taxpayer was not sold during the public auction, yet forfeited in favor of the government for want of bidder?**

**A36.** If the taxpayer availed of the tax amnesty on delinquencies on all the outstanding delinquent tax liabilities, the taxpayer shall present the NIATCA to the concerned BIR Office, and pay the administrative cost. However, if the TAR only pertains to a selected tax type and there are still other outstanding tax liabilities, the property cannot be subject to redemption, in general, except if there is payment of the administrative cost incurred in the public auction, full settlement of the outstanding tax liabilities, inclusive of delinquency penalties, presentation of the NIATCA for the selected tax types where tax amnesty were availed and presentation of the Lifting Order to the Land Registration Authority (LRA)/concerned Register of Deeds.

**Q37. Taxpayer protested the FAN and the Regional Director accepted the protest but directed the taxpayer to submit the necessary documents within the sixty-day period reckoned from date of receipt of the FAN. The taxpayer was not able to submit the required documents. Are the tax liabilities considered “delinquent accounts” due to the taxpayer’s failure to submit the required documents?**

**A37.** Yes. Since the taxpayer failed to submit the required documents within the sixty-day period, the protest cannot be considered a valid protest and the assessment becomes final, executory and demandable despite the absence of the issuance of Final Decision on Disputed Assessment (FDDA).

**Q38. Taxpayer protested the FAN and the Bureau has already issued FDDA on March 1, 2019 but the same was only received by the taxpayer in May, 2019. Can it be considered “delinquent account” for purposes of tax amnesty on delinquencies?**

**A38.** No. Prior to the receipt of the FDDA by the taxpayer, the assessment contained in the FAN is not considered “delinquent account” in view of the protest filed.

**Q39. In the review of the APF for endorsement, the Revenue Officer (RO) noted that withholding tax liabilities were indicated by the taxpayer under category “A” and computed the tax amnesty amount as forty percent (40%) thereof. However, the taxpayer**

**did not present the FAN/FLD/FDDA with details to the RO, can the RO amend the tax amnesty amount reflected in the APF?**

**A39.** Yes, the RO can amend the tax amnesty amount reflected in the APF and apply the default rate for withholding tax liabilities of 100%, unless the taxpayer showed proof that the assessment pertains to non-withholding.

All internal revenue officers, employees and others concerned are enjoined to give this Circular a wide publicity as possible.

(Original Signed)  
**CAESAR R. DULAY**  
Commissioner of Internal Revenue