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TAX LAW FOR BUSINESS

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Tax Amnesty

Before the previous year ended, the House and the Senate ratified the bicameral conference committee report on the 2018 tax amnesty bill. All that the President needs to do is to sign the same into law. If he does not act on it within a prescribed number of days, the bill automatically becomes a law.

Court decisions taught us that a tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of violation of a tax law. It partakes of an absolute waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. While this is obviously disadvantageous on the part of the government, there are also advantages for offering tax amnesties in so far as tax administration is concerned.

On the part of the taxpayers, tax amnesties, in general, must be beneficial to them. In fact, it is not correct to say that only tax evaders are the subjects of the tax amnesty. Neither is it correct to conclude that those availing themselves of tax amnesties are guilty of some form of wrongdoings with respect to their tax obligations. Even non-erring taxpayers may avail themselves of it.

It may therefore be a good time to look at the proposed measure to see the relief accorded to taxpayers. Unlike the previous amnesties, the proposed amnesty provided in the new bill can be divided into three types:

- General Tax Amnesty
- Estate Tax Amnesty
- Delinquent Tax Payers Tax Amnesty

The General Tax Amnesty covers all national internal revenue taxes for the year 2017, and taxes from all prior years that have remained unpaid as of December 31, 2017. Taxpayers can choose to pay a rate of 2 percent of total assets, or 5 percent of net worth, or a minimum tax.

The Estate Tax Amnesty covers the estate tax of taxpayers who had died on or before December 31, 2017, and whose estate taxes have remained unpaid or had accrued as of the said date. The measure allows taxpayers to pay 6 percent of the value of the deceased's total net estate.

The Amnesty for Delinquent Tax Payers also covers all national internal revenue taxes for the year 2017, and taxes from all prior years that have remained unpaid as of December 31, 2017. According to the proposed law, the delinquent tax payer can choose to pay the 40 percent of the basic tax for delinquencies and assessments, which have become final and executory, 50 percent for cases subject of final and executory judgment by the courts, and 60 percent for those subject of pending criminal cases.

Taxpayers will be given a year from the issuance of the implementing rules and regulations (IRR) to avail themselves of the amnesty, except for the estate tax amnesty where taxpayers will be given a two-year grace period. An early-bird discount shall also be granted.

Those who avail themselves of the amnesty program will be immune from civil, criminal, and administrative charges and penalties.

Aside from the requirements outlined in the bill, the provisions of the future IRR must also be observed. Taxpayers have a year from the issuance of IRR in which to avail themselves of the amnesty. Estate tax payers, however, are given two years within which to apply for amnesty.

Furthermore, those who are granted amnesty shall be immune from payment of all taxes, as well as civil, criminal and administrative charges and penalties.

Note, too, that the proposed law shall punish the unlawful disclosure of the tax amnesty return, as well as any other supporting documents that might be needed by the taxpayer to avail himself of the amnesty. There shall be a fine of P150,000 and a maximum imprisonment of 10 years for such violation.

This is an opportunity for all taxpayers, whether they have erred in complying with their tax obligations, intentional or not. Non-erring taxpayers may also avail themselves of the tax amnesty and void the troubles and irritations of tax examinations, or simply to buy peace of mind.

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