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File your tax returns

THE deadline for the filing of income-tax returns and the payment of the corresponding income taxes for the year 2012 is on Monday, April 15, 2013. This deadline applies to all individuals required to file income-tax returns and corporate taxpayers using the calendar as their taxable year.

The failure to meet this deadline is not without consequences. Various kinds of penalties may be imposed for not complying with this deadline. Non-payment of tax on time automatically results in the imposition of a surcharge. This is 25 percent of the basic tax due and may be increased to a half of the basic tax due if the taxpayer is found to have willfully neglected to file his income-tax return.

Another consequence of failure to pay tax on time is the imposition of the 20-percent interest. Unlike the surcharge, though, which is fixed at 25 percent to 50 percent of the amount due regardless of the number of days the taxpayer is delayed, this 20-percent interest is computed per annum. Nonetheless, the amount could also be significant.

More important, a taxpayer can be prosecuted for non-compliance of his tax obligations. We used to say that nobody is imprisoned for non-payment of tax. That is the past. The tax authority, through the Run After Tax Evaders Program, is vigorously pursuing alleged erring taxpayers. And while this program seems to cover tax evaders, violation of Tax Code provisions, which may result in prosecution does not only cover tax evasion. In fact, many criminal cases filed against taxpayers do not involve tax evasion but a violation of some other provisions of the Tax Code.

One of the provisions of the Tax Code is Section 255, which penalizes failure to file returns, supply correct and accurate information, pay tax, withhold and remit tax and refund excess taxes withheld on compensation. Failure to pay tax alone is a crime penalized under the Tax Code. This is committed when a person is (1) Required under the law and rules to pay tax, (2) But he willfully fails to pay them, (3) At the time required by law and rules. (The C.T.A. Crim. Case 0-142, March 13, 2013)

And not only the taxpayer can be held accountable for his failure to comply with his tax obligation. A person who willfully aids or abets the commission of the crime punishable under the Tax Code is also liable in the same manner as the principal. Thus, a person can be charged even if he is not the taxpayer.

An individual might not be charged in his individual capacity—he can also be charged in his capacity as responsible officer of the corporation he represents. Under our tax law, in the case of associations, partnerships or corporations, the penalty is imposed on the partner, president, general manager, treasurer, officer in charge, and the employees responsible for the violation. The penalty for violation of a corporation's tax obligations, if proven, will be imposed upon the erring officers.

Corporations incur no criminal liability for the same is personal to its officers. This is so because of the difficulty, if not impossibility, of imposing the penal sanction, i.e., imprisonment, to a being that has no corporal existence, and which cannot be thrown in jail. It is the corporate officers who are made criminally liable. It would seem that the officers referred to pertain to those responsible in ensuring that the correct taxes are paid. For instance, the president and the chief accountant are responsible officers because their positions have something to do with the responsibility related to the finances of the corporation. (CTA Crim. Case O-113) Also, the vice president for finance who is responsible for the finances of the corporation is considered as responsible officer for purposes of prosecution for violation of the tax laws. (CTA Crim. O-028, July 12, 2011) Thus, being an officer of a corporation carries with it the duty to ensure that the tax obligation of the corporation is properly discharged, especially those tasked to do so.

It is true that there a number of criminal cases filed against alleged erring taxpayers that had been dismissed by the Courts. But it is also true that there is at least one conviction. I am sure you don't aspire to be added to that statistics. So go out and file your income-tax returns and do it correctly, whether you are the taxpayer, representative of the taxpayer or responsible officer of the taxpayer.

The author is the senior partner of Du-Baladad and Associates Law Offices (BDB Law), a member-firm of World Tax Services (WTS) Alliance.

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