



Tax Law  
for  
Business

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## **Abatement works for Pinoy employees of embassies and international organizations**

THE authority to abate taxes is exclusively vested with the commissioner of the Bureau of Internal Revenue (BIR) and cannot be delegated to any other bureau official. In abating penalties, the commissioner does not act merely out of compassion or charity but considers the pecuniary interest of the government, justice and equity and public policy. Thus, in several issuings by the BIR, the commissioner refused to grant requests for abatement if the circumstances do not strictly fall under the grounds enumerated under prevailing rules and analogous instances.

Amid the clamor for abatement received by the BIR from embassies and international organizations based in the Philippines due to the issuance of RMC 31-2013 requiring the filing of returns of their Filipino employees, the bureau issued Revenue Regulations (RR) 7-2013. This regulation will guide concerned employees when they file their application for abatement.

Generally, when abatement is granted under existing rules, it applies only to surcharge, interests and compromise penalties. In meritorious instances, the commissioner may, likewise, abate the basic tax assessed or any portion of it if there is an existing regulation allowing such. As much as Filipino employees wanted to, their basic taxes or any portion of it may not be abated. However, for humanitarian reasons, they are only required to declare their salaries starting taxable year 2012 for income-tax purposes.

To initiate the abatement process, Filipino employees covered by RMC 31-2013 are first required to register with the RDO having jurisdiction over the place where they are employed if they are not yet registered and file therein their original or amended income-tax returns on or before May 15, 2013. Simultaneously, they may express their intention to avail themselves of the abatement by filing a Declaration of Availment of Abatement together with the other

applicable attachments, such as waiver of the husband's right to claim additional exemption, proof of full or partial payment of taxes based on original or amended returns, authorization letter, if filed by authorized representative; and the notarized certificate issued by the taxpayer's employer and duly confirmed by the employee containing the monthly breakdown of salaries, emoluments and monetary benefits received by the taxpayer during the 2012 calendar year.

When the returns, declaration, and applicable attachments have already been filed and revisions have been considered, Filipino employees are given until May 15, 2013, wherein they could pay the basic tax. From the receipt of thereof, the RDO concerned has until May 31, 2013, to forward the documents to the commissioner who shall have the final say on the application. In all instances, the Filipino employees will be notified of the approval/disapproval of their application. It is important to note, however, that even if the application for abatement is approved, it shall not be a reason for the BIR not to conduct further investigation in order to determine the accuracy of the income declared.

Since abatement is not a right granted to a taxpayer but a mere privilege subject to the discretion of the commissioner, only those who are included in the Summary List of Employees as of December 31, 2012, may avail themselves of the abatement. That Summary List of Employees must be submitted to the commissioner by the foreign embassies or international organizations on or before May 10, 2013, in the format prescribed by the RR 7-2013. Also, only those who have not been served with any Letter of Authority, Tax Verification Notice, Letter Notice, or discrepancy notices of whatever nature, as well as those who have not been the subject of any pending criminal case, whether filed in court or with the Department of Justice, for tax evasion and other criminal offenses under the Tax Code covering the 2012 calendar year may exercise such privilege.

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