

**REVENUE REGULATIONS NO. 21-2020** issued on September 4, 2020 prescribes the policies, procedures and guidelines in the implementation of the Voluntary Assessment and Payment Program (VAPP) for Taxable Year 2018 under certain conditions.

The Regulations shall apply to all internal revenue taxes covering the taxable year ending December 31, 2018, and fiscal year 2018 ending on the last day of the months of July 2018 to June 2019, including taxes on One-Time Transactions (ONETT) such as Estate Tax, Donor's Tax, Capital Gains Tax, as well as ONETT-related Creditable Withholding Tax/Expanded Withholding Tax and Documentary Stamp Tax.

Any person, natural or juridical, including estates and trusts, liable to pay internal revenue taxes for the above specified period/s who, due to inadvertence or otherwise, erroneously paid his/its internal revenue tax liabilities or failed to file tax returns/pay taxes, may avail of the benefits under the Regulations, except those falling under any of the following instances:

- a. Those taxpayers who have already been issued a Final Assessment Notice (FAN) that have become final and executory, on or before the effectivity of the Regulations;
- b. Persons under investigation as a result of verified information filed by a tax informer under Section 282 of the NIRC of 1997, as amended, with respect to the deficiency taxes that may be due out of such verified information;
- c. Those with cases involving tax fraud filed and pending in the Department of Justice or in the courts; and
- d. Those with pending cases involving tax evasion and other criminal offenses under Chapter II of Title X of the NIRC of 1997, as amended.

Qualified persons can avail of the benefits of the VAPP until December 31, 2020, unless extended by the Secretary of Finance. To avail of the benefits of the VAPP, the following requirements shall be submitted to the BIR:

- a. Duly accomplished Application Form (BIR Form No. 2119–2 copies);
- b. Payment Form (BIR Form No. 0622) with proof of payment (3 copies);
- c. Filed tax returns, proof of payment of taxes paid in 2017 and 2018 and audited Financial Statements for the covered taxable year for those availing of the program under Section 9.a of the Regulations;
- d. Copy of remittance returns and proof of payment of final and creditable withholding taxes for taxpayers availing of the program under Section 9.b;
- e. Copy of duly paid BIR Form 0605 stamped either by the Authorized Agent Banks (AABs) or Revenue Collection Officers (RCOs) duly signed by the Large Taxpayer T Office/RDO where the taxpayer is registered and proof of payment representing settlement of previous deficiency tax, with or without an assessment notice, if any, covering the taxable period under Section 3;
- f. Duly accomplished ONETT tax return(s) (BIR Form Nos. 1800, 1801, 1706, 1707, 2000-OT, 0619-E) and corresponding documentary requirements for the transaction of taxpayers availing of the program under Section 9.c.

The voluntary payment, as indicated in BIR Form No. 0622 (Payment Form), should be in cash as a condition for availment of the VAPP's privilege. Hence, non-cash modes of payment, such as Tax Debit Memo and the like, will not qualify as a valid payment.

The duly accomplished BIR Form No. 0622 shall be presented for payment to any BIR AAB or RCO under the Large Taxpayers (LT) Office/Revenue District Office (RDO) having jurisdiction over the taxpayer, except for ONETT involving the sale of property, which must be filed/paid with the AABs/RCOs under the RDO covering the location of the

property. Hence, separate applications must be filed in case the availment is under non-ONETT (Sections 9.a and 9.b) and ONETT wherein the same taxpayer is registered in an RDO different from the RDO having jurisdiction over the place where the decedent is domiciled at the time of death; or where the donor is domiciled at the time of donation; or where the property is located. Likewise, separate applications must be filed for availment under Section 9.c for transactions involving the sale of real properties under the jurisdiction of different RDOs.

The requirements can be filed personally or through courier service with the LT Office/RDO having jurisdiction over the taxpayer and will be processed by concerned officials within thirty (30) working days from its receipt. If the review reveals deficiencies or defects in the availment, the approving official shall notify the concerned taxpayer through the email address provided in BIR Form No. 2119 and shall require the taxpayer to rectify the defects and/or comply with/pay the deficiencies within ten (10) working days from receipt of the notification/email. Failure to act and/or pay the required amount on the part of the taxpayer within such period shall result in the denial of the application.

A Certificate of Availment shall be issued by the concerned LT Office/RDO within three (3) working days from approval of the application. The Certificate shall serve as proof of the taxpayer's availment of the VAPP, compliance with the requirements and entitlement to the privilege granted under the Regulations.

The LT Office/RDO shall transmit all dockets on approved VAPP applications to the concerned reviewing office not later than the 5<sup>th</sup> day following the month of issuance of the Certificate of Availment, for post review.

Taxpayers whose availment is found to be invalid, deficient or defective are not entitled to the privilege under the Regulations. However, they may apply the voluntary payments made against any deficiency tax liability for the taxable year 2018, in case of audit/investigation.

The amount of taxes to be paid as a condition to avail the privilege shall be determined in accordance with the following schedule:

- a. For Income Tax (IT), Value-Added Tax (VAT), Percentage Tax (PT), Excise Tax (ET), and Documentary Stamp Tax other than DST on ONETT

<b>Increase/Decrease in the Total Taxes Due from 2017 to 2018 (A)</b>	<b>Amount of Voluntary Tax Payment whichever is the higher of – (B)</b>	<b>Minimum Amount (C)</b>
Net increase of not more than 10%	3% of 2018 gross sales or 7% of 2018 taxable net income	Individuals, estates and trusts – P75,000  Corporations – a. With subscribed capital of more than ₱ 50 million – ₱ 1,000,000 b. With subscribed capital of more
Net increase of more than 10% up to 30%	2% of 2018 gross sales or 6% of 2018 taxable net income	b. With subscribed capital of more

<b>Increase/Decrease in the Total Taxes Due from 2017 to 2018 (A)</b>	<b>Amount of Voluntary Tax Payment whichever is the higher of – (B)</b>	<b>Minimum Amount (C)</b>
Net increase of more than 30%	1% of 2018 gross sales or 5% of 2018 taxable net income	than ₱ 20 million up to ₱ 50 million – ₱ 500,000
Net decrease of not more than 10%	4% of 2018 gross sales or 8% of 2018 taxable net income	c. With subscribed capital of more than ₱ 5 million up to ₱ 20 million – ₱ 250,000
Net decrease of more than 10%	5% of 2018 gross sales or 9% of 2018 taxable net income	d. With subscribed capital of ₱ 5 million and less – ₱ 100,000  Other juridical entities, including but not limited to cooperatives, foundations, general professional partnerships – ₱ 75,000

The amount to be paid must be the higher amount in column B, but in no case should be less than the amount in column C. Total taxes due in 2017 and 2018, for purposes of the above schedule, refer to the sum of all tax due per tax return (IT, PT, ET and DST) and net VAT payable (VAT) before deducting any Creditable Withholding Tax, quarterly payment or advance payment. Gross sales and taxable net income shall be based on the Annual Income Tax Return for the taxable year ending December 31, 2018, and fiscal year 2018 ending on the last day of July 2018 to June 2019.

In cases where any non-ONETT tax deficiency covering the taxable period under Section 3 has already been paid, the basic deficiency tax paid shall be added to the tax due of the applicable tax returns for 2018 in computing the amount of voluntary payment required under Section 9.a. provided, that, such payment did not arise from the cases excluded from the coverage of the VAPP under Section 3.

- b. For Final Withholding Taxes (on Compensation, Fringe Benefits, etc.) and Creditable Withholding Tax (CWT) other than CWT on ONETT, the amount to be paid shall be five percent (5%) of the total basic Withholding Tax remittance for the taxable year 2018.

For purposes of VAPP availment under Sections 9.a and 9.b, taxpayers must apply for all registered taxes indicated therein in order to avail of the privilege set forth under Section 10. For taxpayers with claims for tax credit/refund, this shall

constitute a waiver of such claims under Section 12 hereof, unless they exclude in their availment the specific tax type for which they are pursuing the claim for tax credit/refund.

- c. For taxes on ONETT, such as Estate Tax, Donor's Tax, Capital Gains Tax, ONETT-related CWT/Expanded Withholding Tax and DST, the amount to be paid shall be the basic tax due of the unfiled tax return/unpaid tax due plus 5%.

A taxpayer with a duly issued Certificate of Availment shall not be audited for 2018 for the tax types covered by the availment. In case the taxpayer's tax returns for the covered taxable period are currently being audited, the conduct of the audit shall be suspended upon the availment of the VAPP while the availment is under evaluation. It shall resume if the availment has been found invalid. If the taxpayer's availment has been determined to be valid, a Certificate of the Availment shall be issued and consequently, the issued Letter of Authority, Tax Verification Notice, Discrepancy Notice, Notice for Informal Conference, Preliminary Assessment Notice, Final Assessment Notice for pending cases shall be withdrawn and cancelled.

However, despite the issuance of a Certificate of Availment, the taxpayer's availment shall be rendered invalid and shall be subject to audit or investigation following the prescribed procedures under existing rules and regulations, upon prior authorization and approval of the Commissioner of Internal Revenue, as prescribed in the following instances:

- a. When there is strong evidence or findings of under-declaration of sales, receipts or income or overstatement of deductions by more than 30% based on a written report of the appropriate revenue official stating the facts with supporting documents; and/or
- b. When there is verifiable information that the taxpayer has withheld but failed to remit withholding taxes.

Any voluntary payment may be applied against the deficiency tax due, if any, that may be assessed against the taxpayer after the audit/investigation.

Taxpayers who failed to file tax returns and/or pay their taxes for the taxable year 2018 under Section 9.a hereof can apply for VAPP, provided that the unfiled tax returns shall first be filed and/or unpaid taxes plus corresponding penalties for late filing and payment shall first be paid by the taxpayer.

Any payment made under these Regulations is construed as a waiver of the taxpayer's right to claim for refund or credit, notwithstanding the collection thereof from an erroneous payment. The act of voluntary payment under this program shall not be deemed as an admission on the part of the taxpayer that there was fraud in the declaration of its taxes and/or there was an intention to pay the tax erroneously.