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TOP OF MIND

By **MARIA GRACIA D. DYOCO**

A treat for erring taxpayers

Halloween season has come upon us. It is that time of the year when spooky stories are being told, costumes are being worn and “trick or treats!” are being shouted by children asking for candies and sweets. This year, aside from trick-or-treating children, erring taxpayers are also up for a treat by means of a tax amnesty which is already brewing in Congress.



In line with the current administration’s tax reform program, Rep. Danilo Suarez, third district representative of Quezon Province, sponsored House Bill (HB) No. 3832 entitled An Act Granting Tax Amnesty on All Unpaid Internal Revenue Tax Liabilities for Taxable Period January 2006 to June 2016, otherwise known as the Tax Amnesty Act of 2016.

Tax amnesty, as defined by the Supreme Court, 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.” To put it simply, taxpayers who failed to disclose their income or pay their tax liabilities from previous years are granted forgiveness by the government free from any civil, criminal or administrative penalties arising from their failure to pay taxes.

The grant of tax amnesty to erring taxpayers is not something new. In 2007, Republic Act (RA) No. 9480 or the Tax Amnesty Act of 2007 was enacted into law granting tax amnesty to all national internal revenue taxes for the taxable year 2005 and prior years that have remained unpaid as of Dec. 31, 2005, except for persons and cases specifically excluded by the act. After almost 10 years since the enactment of this law, a new tax amnesty bill has been filed providing the same benefits to erring taxpayers.

As stated in the explanatory note of HB No. 3832, Rep. Suarez seeks the approval of the HB since it may result to an increased number of registered taxpayers and increased compliance with national tax policies. In addition, immunities provided under the proposed tax amnesty bill will possibly discourage tax evasion.

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Moreover, granting tax amnesty has been proven to be effective based on the Bureau of Internal Revenue's (BIR's) 2008 annual report which states that collections generated from the tax amnesty program amounted to P5.902 billion from 20, 629 taxpayers who availed of the program. Thus, aiding the BIR in increasing its collections.

HB No. 3832 covers all internal revenue taxes, with or without assessment duly issued therefor, from the taxable period beginning Jan. 1, 2006, day after the cut-off date of the Tax Amnesty Act of 2007, up to June 30, 2016, that have remained unpaid as of June 30, 2016.

Similar to the provisions of the Tax Amnesty Act of 2007, HB No. 3832 excluded the following from the coverage of tax amnesty: a) Withholding agents with respect to their withholding tax liabilities, b) Those with pending cases with the Presidential Commission on Good Government, c) Cases involving violation of the Anti-Graft and Corrupt Practices Act and Anti-Money Laundering Law, d) Cases involving tax evasion, fraud, illegal exactions and transactions and malversation of public funds. e) Cases subject of final and executory judgment by the courts.

To avail of the benefits of the proposed tax amnesty, the covered taxpayers must file a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Net worth (SALN) as of June 30, 2016 on or before Dec. 31, 2017 at the office of the Revenue District Officer which has jurisdiction over its legal residence or principal place of business, and pay the applicable amnesty tax within six months from the effectivity of the law. The time for the filing of the Tax Amnesty Return may be extended by the commissioner of Internal Revenue (CIR) but it should not be later than Feb. 28, 2018.

In lieu of tax liabilities, erring taxpayers are only required to pay an amnesty tax based on the schedule of amnesty tax rates and minimum amnesty tax payments provided under the proposed bill. The amnesty tax is based on the taxpayer's net worth as declared in the SALN. The amnesty tax rate is whichever is higher between five percent of the taxpayer's net worth or an amount ranging from P25,000 to P500,000 depending on the classification of the taxpayer.

As for taxpayers who have already filed their balance sheet or SALN, together with their income tax returns for 2015, they are given the chance to amend their previously filed statements to include undeclared assets or liabilities and pay an amnesty tax equal to five percent of the resulting increase in net worth.

Aside from immunity from the payment of taxes, erring taxpayers who will avail of the benefits of the proposed tax amnesty will not be charged with any penalties provided under the tax laws from their failure to pay taxes. Moreover, the Tax Amnesty Returns and SALN filed shall not be admissible as evidence in all court proceedings involving the taxable period covered by the tax amnesty.

Clearly, this is a treat for erring taxpayers. If this bill is passed into law, they will be given a chance to settle their tax liabilities free from prosecution and start with a clean slate.

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