

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 30, 2002

REVENUE MEMORANDUM ORDER NO. 23-2002

SUBJECT : Prescribing the Guidelines and Procedures in the Implementation of the Voluntary Assessment and Abatement Program (VAAP) Pursuant to the Provisions of Revenue Regulations No. 12-2002 dated September 11, 2002.

TO : All Internal Revenue Officers and Others Concerned.

Section 1. Objectives. - This Order is issued to :

- 1.1 Prescribe uniform rules for the availment of VAAP and the processes involved in the handling of VAAP applications pursuant to the provisions of Revenue Regulations No. 12-2002;
- 1.2 Prescribe the documentary requirements and information that must be submitted by taxpayers who would avail of VAAP; and
- 1.3 Define the roles and responsibilities of Offices involved in the processing, review, and monitoring of taxpayers who have availed of VAAP.

Section 2. - General Policies. –

2.1 Persons Covered. - Any person, natural or juridical, who has underreported his/its sales/receipts/income or taxable base subject to income tax under Title II, value-added tax under Title IV, and excise tax under Title VI of the National Internal Revenue Code of 1997 (Tax Code).

2.2 Taxes Covered. - VAT, income tax, and excise tax, resulting from the underdeclared sales/receipts/income/taxable base, covered by appropriate revenue regulations at the time of taxpayer's availment. The VAAP availment shall include the payment of VAT, income tax, and excise tax due from the sales underdeclaration which taxes/amounts payable shall be computed in accordance with **Annex "A"** hereof.

2.3 Taxable Periods Covered. -

- 2.3.1 **Income Tax . –** (a) Calendar years 2000 and 2001; (b) Fiscal years 2000 and 2001 except FY ending the month of June 2002 (although considered part of FY 2001). Taxpayers with fiscal year ending the month of June 2002 are not covered by the Program because the deadline for the filing of their income tax returns is on October 15, 2002 and therefore, many might not have filed

yet their original income tax returns upon the effectivity of Revenue Regulations No. 12-2002.

- 2.3.2 **Value Added Tax.**- (a) Calendar Year 2000; (b) Calendar Year 2001; and (c) First Calendar Semester of Year 2002
- 2.3.3 **Excise Tax.** – (a) Calendar Year 2000; (b) Calendar Year 2001; and (c) First Calendar Semester of Year 2002.
- 2.4 **Exception from the VAAP Coverage. -**
 - 2.4.1 Those taxpayers subjected to regular audit/investigation covering the taxable years covered by VAAP (i.e., 2000, 2001, etc.) who have been issued Final Assessment Notice (FAN) on or before September 16, 2002 in respect to the taxes covered.
 - 2.4.2 Persons under investigation as a result of a verified information filed by a Tax Informer under Section 282 of the Tax Code of 1997, duly processed and recorded in the Official Registry Book on or before September 16, 2002.
- 2.5 **Types of VAAP Availment. -** The type of VAAP availment shall depend on the discrepancy discovered by the BIR through its RELIEF Program and other processes.
 - 2.5.1 Taxpayers who have been sent Letter Notice (LN) by the BIR shall be advised of the following, where applicable:
 - 2.5.1.1 Years/periods with noted discrepancy as of the date of LN;
 - 2.5.1.2 Years/ periods without noted discrepancy yet as of the date of LN.
 - Example. -** Mr. A was sent an LN by the BIR. The LN states that for Year 2001, it was discovered that Mr. A underdeclared his sales by P20,000,000. In the LN, he was advised to avail of VAAP not only for Year 2001 but also for Years 2000 and first two (2) calendar quarters of 2002.

In the said LN, Year 2001 is the year with noted discrepancy, whereas Year 2000 as well as first semester of 2002 are, respectively, the periods with no noted discrepancy yet.
 - 2.5.2 Taxpayers who have not received LN from the BIR but would nevertheless want to voluntarily disclose their underdeclared sales/income/taxable base through VAAP for the years covered by the Program.
- 2.6 **Forms to be Accomplished for VAAP Availment. -**
 - 2.6.1 **Voluntary Assessment and Abatement Program – Payment Form (VAAP-PF)** - VAAP-PF shall be accomplished in four (4) copies. This form shall be

used for payment of the amount of taxes required to be paid under the Program.

2.6.2 Voluntary Assessment and Abatement Program - Application Form (VAAP-AF) - VAAP-AF shall be accomplished in triplicate copies. This form shall be used to disclose the total adjusted sales/taxable base after considering the amount of underdeclared sales/taxable base voluntarily disclosed, the amount of discrepancy discovered by the BIR as stated in the LN, if any, and the sales/transactions declared per original returns filed. It shall likewise show the deductions/credits claimed to arrive at the taxable base on which the appropriate tax rate is applied to determine the adjusted tax due, basic tax as defined in RR No. 12-2002 as well as the VAAP amount required to be paid under the Program.

2.6.3 Manner of Accomplishing the Forms. –

2.6.3.1 Per tax type and taxable period basis. - VAAP-PF and VAAP-AF shall be accomplished on a per tax type and taxable period basis. Thus, if the VAAP availment covers two (2) types of taxes, there shall be two (2) sets of VAAP-PF and VAAP-AF to be accomplished corresponding to the tax types and taxable periods covered by the availment except when additional VAAP payments require the accomplishment of another set of VAAP-PF to cover the additional payments to be made. In short, one VAAP-PF with corresponding VAAP-AF covers one tax type for one taxable period as enunciated in this RMO.

2.6.3.2 Taxable Periods Per VAAP Availment . – VAAP availment for income tax shall be on a yearly basis. VAAP availment for VAT and excise tax shall likewise be on a yearly rather than on a quarterly basis for Years covering 2000 and 2001. However, for VAAP availment on VAT and excise tax covering the period January 2002 to June 2002, the VAAP availment shall be the cumulative total of the two (2) quarters.

Example:

YEAR	VAAP-AF	VAAP-PF
Year 2000		
VAT	1	1
Income Tax	1	1
Excise Tax	1	1
Year 2001		
VAT	1	1
Income Tax	1	1
Excise Tax	1	1
Year 2002 (up to June 2002)		
VAT	1	1

Excise Tax	<u>1</u>	<u>1</u>
Total	8	8
	=	=

2.7 **Effect of VAAP Availment.** – The following shall be the effects of VAAP availment subject to Section 8 of Revenue Regulations No. 12-2002 and Section 2.9 of this Order.

2.7.1 Abatement or cancellation of penalties that would otherwise be imposed to the taxpayer with respect to the applicable taxes due from the underdeclared sales disclosed, which penalties include the imposition of the 50% surcharge, 20% interest per annum and compromise penalties;

2.7.2 Taxpayer shall not be subjected to criminal penalties;

2.7.3 Taxpayer shall not be subjected to the administrative penalty of closure of business establishment for underdeclaration of at least 30%; and

2.7.4 Taxpayer shall be entitled to the privilege of last priority in audit but the BIR shall continue in gathering third party information from external as well as its internal records.

Nothing precludes the BIR from checking with available sources of information the correctness of the tax base used by the taxpayer in his VAAP availment in respect to the taxable periods where no returns have been previously filed.

2.8 **Disposition of Current Audit Cases.** -

2.8.1 Upon payment of the VAAP amounts prescribed above, the audit case shall be suspended and the docket thereof including the VAAP-AF and VAAP-PF shall be transmitted to the Technical Working Group-Final Validation of Discrepancy (TWG-FVD) for evaluation.

2.8.2 All audit cases (i.e., with Letters of Authority issued) initiated as a result of the discrepancies uncovered by RELIEF, whether such investigation is still on-going or has already been concluded, shall be transmitted to the Technical Working Group-Initial Validation of Discrepancy (TWG-IVD) for evaluation and preparation of Letter Notice embodying the RELIEF findings as well as the findings of the RDO/BIR Office that is conducting the audit of the taxpayer's records and tax liabilities.

2.9 **Consequence of Incorrect Disclosure.** - The abatement or cancellation of penalties is predicated and conditioned on the taxpayer's full, complete, correct, accurate and honest disclosure of his sales/receipts/income/taxable base as well as the payment of correct amount of taxes due thereon. Accordingly, the following rules shall apply:

2.9.1 Notwithstanding taxpayer's availment of VAAP and payment of the amount required under the Program, such availment and the payments made thereon shall be null and void and the entire underdeclaration shall be subjected to the full force of the law (i.e., criminal prosecution, closure of business establishment, tax audit, provided, approved by the Commissioner) in any of the following cases:

2.9.1.1 The Bureau discovers additional sales/revenues/taxable amounts which have not been disclosed in the VAAP-AF submitted which exceed the amount voluntarily disclosed by 10% or P1,000,000, whichever is lower.

Example. - Mr. X availed of VAAP for the calendar year 2000 despite not having received any LN from the BIR.

In his VAAP-AF, he declared a total adjusted sales amounting to P70,000,000 consisting of the following:

Sales per Y2000 ITR/VAT Returns	P50,000,000
Additional Sales per Voluntary Disclosure	<u>20,000,000</u>
Total Adjusted Sales	P70,000,000
	=====

He paid the corresponding VAAP amounts due on VAT and income using the VAAP-PF.

Subsequently, however, the BIR discovered the following:

Additional Sales per Voluntary Disclosure as indicated in VAAP-AF	P20,000,000
Additional Sales Not Included in VAAP-AF	P40,000,000

(a) Percentage of Incorrect Disclosure. -

$$(P40,000,000 / P20,000,000) = \underline{\underline{200\%}}$$

(b) Threshold Amount for Nullity of VAAP.- Additional sales/revenues/taxable amounts discovered exceed 10% of amount voluntarily disclosed or P1,000,000, whichever is lower.

In this case, since the P40,000,000 additional sales discovered is 200% of the additional sales voluntarily disclosed in the VAAP-AF or more than P1,000,000, the VAAP amounts paid by the taxpayer under the Program shall be considered null and void and the appropriate enforcement action shall be instituted. The maximum penalties shall be applied to the taxpayer's tax liabilities including the amount of sales/receipts/income for which VAAP was availed, less the VAAP amounts and taxes previously

paid. Additional sanctions and penalties may still be imposed depending upon the gravity and degree of the discovered underdeclarations.

2.9.1.2 The BIR discovers overstatement in purchases/costs/deductions/ credits by more than 10% of what has been disclosed in the VAAP-AF or 1,000,000, whichever is lower.

2.9.2 If the additional sales/revenue/taxable base underdeclaration subsequently discovered by the BIR is less than 10% of what has been previously disclosed in the VAAP-AF submitted or P1,000,000, whichever is lower, the VAAP availment shall remain valid, provided that payment of additional VAAP amounts computed in accordance with Sections 5 and 6 of RR No. 12-2002 as illustrated in **Annex “A”** hereof shall be made on the additional discrepancy discovered.

2.10 **Computation of VAAP.** – The computation of the VAAP amounts to be paid shall be made in accordance with Sections 5 and 6 of Revenue Regulations No. 12-2002. A more detailed discussion on how to arrive at the VAAP amounts is properly illustrated in **Annex “A”** of this Order.

(Note: Tax deduction and credit claimed as applicable to sales discrepancy per LN and/or on sales voluntarily disclosed shall be subject to the submission of soft copy of schedule of purchases.)

2.11 **Offices Responsible.** - The Offices identified in **Annex “B”** of this Order shall be responsible in ensuring the proper implementation of the Program.

Section 3. Conditions and Deadlines of VAAP Availment. -

3.1 For Taxpayers Who Have Been Sent LN By The BIR. –

3.1.1 Payment on or before the deadline prescribed in the Letter Notice of the minimum amounts payable for VAT, income tax, excise tax, if applicable, etc., for the taxable year or years/periods with noted discrepancy (see Section 2.5.1.1) at the following rates stated below which shall be applied on the under-reported sales stated in the LN, using the VAAP-Payment Form (VAAP-PF):

3.1.1.1 VAT - 3% (for sale of goods) or 6% (for sale of services);

3.1.1.2 Income tax - 2% ; and

3.1.1.3 Excise tax - 2%.

3.1.2 Submission of VAAP-Application Form (VAAP-AF) on or before the deadline prescribed in the LN for the year/period with noted discrepancy for VAT, income tax , excise tax, if applicable, etc.; and

3.1.3 Payment on or before the date prescribed in the LN of (A) the balance, if any, of 110% of basic tax due on total adjusted sales/income/taxable base for

VAT, income tax, excise tax, if any, for taxable year/period with noted discrepancy if the same is bigger than the minimum payment required for under-declared sales/revenue/taxable base discovered (see Section 2.5.1.1); and (B) 110 % of basic tax due on total adjusted sales/income/revenue/taxable base for VAT, income tax, excise tax, if any, etc., for the other taxable years covered by the Program (see Section 2.5.1.2).

3.2 For Taxpayers Who Have Not Been Sent LN By The BIR. -Submission on or before November 15, 2002 of the following:

3.2.1 VAAP-AF for each type of tax and taxable period intended to be covered by the availment;

3.2.2 Payment of VAAP amount (i.e., 110% of basic tax due) of the particular taxes and taxable periods intended to be covered by the availment, using VAAP-PF.

Section 4. Processing of VAAP.-

4.1 Data Gathering, Processing and Matching of Gathered Information. -

4.1.1 The TWG-IVD, under the supervision of the VAT-Project Coordinating Committee (VAT-PCC), gets from the concerned office (e.g., Large Taxpayers Service, through the LT-DPQAD or Systems Operations Division), the summary of sales / purchases filed by taxpayers pursuant to Revenue Regulations No. 13-97 as amended by Revenue Regulations 7-99 and as further amended by Revenue Regulations No. 8-2002.

4.1.2 The RELIEF System consolidates purchases by one or several taxpayers (i.e. Buyers) from a particular supplier (i.e., the “Seller”) and matches this against the sales data of Seller;

4.1.3 TWG-IVD requests from concerned RDOs/BIR offices certified true copies of VAT returns, income tax returns, excise tax returns/payment forms of Sellers falling under their respective jurisdiction.

4.1.4 Upon receipt of certified true copies of returns from the RDOs/concerned BIR office, TWG-IVD then transmits initial discrepancy reports together with tax returns to the TWG-FVD for review and validation.

4.2 Validation of Discrepancy Reports and Issuance of LNs. -

4.2.1 TWG-FVD then reviews and validates initial discrepancy reports against the tax returns filed. The validated discrepancy reports shall subsequently be transmitted back to the TWG-IVD for the preparation of the LN.

4.2.2 TWG-IVD prepares LNs for the signature of the Commissioner of Internal Revenue (CIR). Letter Notices must be numbered in order to serve as reference in checking the actions undertaken by the RDOs/concerned BIR offices and must be encoded into the Tracking System developed by TWG-ISG using the file format prescribed for control and monitoring purposes. The LNs shall be farmed-out to the RDOs/concerned BIR office for delivery to the concerned taxpayers together with a transmittal list of taxpayers given with Letter Notices, copy furnished TWG-FVD and VAT-PCC.

Soft copies of LN masterlist register and subsequent updates thereto shall be submitted by the TWG-IVD to the TWG-ISG, VAT PCC, ODCIR-Operations Group, and the Office of the CIR every Monday of the following week.

4.2.3 TWG-ISG consolidates LN inventory report file with LN masterlist register and with the collection data extracted from LBDES and e-mails consolidated report to Office of the CIR, ODCIR-Operations Group and VAT-PCC.

4.2.4 RDOs personally delivers LN to taxpayers within twenty four (24) hours from receipt thereof. Using the file format provided by the TWG-ISG, RDOs shall then encode into the Tracking System status of LNs which have been duly received by taxpayers and actions taken on unserved LNs based on prescribed monitoring sheets.

All copies of LNs not successfully delivered, accompanied by a written report of action taken and recommendation, must be returned to the TWG-FVD within two (2) weeks from receipt thereof. The whole docket shall be forwarded by the TWG-IVD to the TWG-FVD which shall then evaluate the next course of action to be undertaken.

4.3 Availment of VAAP.-

4.3.1 **For Taxpayers with LN.** - Once the taxpayer receives an LN, he shall secure the VAAP-AF and VAAP-PF forms from the RDOs. He shall pay the minimum amounts prescribed in Subsection 3.1.1 hereof within the period stated in the LN using the VAAP-PF which must be accomplished in four (4) copies. Payments of said amounts shall be made with the AABs of the BIR Office having jurisdiction over the taxpayer's principal place of office. Upon receipt of the VAAP payments, the AAB shall validate the VAAP-PF, retain two (2) copies thereof and issue an official receipt (OR). The taxpayer shall then accomplish the VAAP-AF in three (3) copies. If the 110% basic tax due computed per VAAP-AF is higher than the VAAP minimum amount initially paid, he shall again pay the additional VAAP amount by again accomplishing the VAAP-PF in four (4) copies which additional VAAP payment following the same procedures aforesaid. For years/periods without noted discrepancy, he shall accomplish VAAP-AF and VAAP-PF for each of the tax type of such year/period and shall pay 110% basic tax with the AAB following the procedures set forth above.

- 4.3.2 **Taxpayers without LN.-** A taxpayer who has not received any LN from BIR shall avail of VAAP by accomplishing the VAAP-AF in three (3) copies. The 110% basic tax due computed in the VAAP-AF shall then be paid with the AAB having jurisdiction over the taxpayer's principal place of office using the VAAP-PF which must be accomplished in four (4) copies. The concerned AAB shall then validate the VAAP-PF, retain two (2) copies thereof and issue OR .
- 4.3.3 Any query that the taxpayer may have on the sales discrepancy stated in the LN may be addressed to the VAT-PCC through the TWG-IVD with telephone numbers 922-1926 and 926-3282. Any query on the procedures, however, shall be addressed to the VAAP Hotline set up by the RDOs or the National Office VAAP Hotline with telephone numbers 929-7602, 929-7603, and 919-7604.
- 4.3.4 The accomplished VAAP-AF shall then be submitted to the RDOs with a copy of the OR/s and VAAP-PF attached to the original copies of the VAAP-AF within the periods prescribed in Section 3 hereof. RDOs shall then review the correctness of the computation of the VAAP-AF and the VAAP amounts paid and shall retain the original and duplicate copies of the VAAP-AF together with attachments. The triplicate copy of VAAP- AF as duly received by the RDO shall be returned to the taxpayer for his file copy.
- 4.3.3 Within three (3) days from receipt of the VAAP-AF and VAAP-PF from taxpayer, RDOs shall encode into the Tracking System all information contained in the VAAP-AF and VAAP-PF submitted by the taxpayers and such other information that may be required in order to come up with the following reports:
- 4.3.5.1 Taxpayers who were sent LNs and availed of VAAP for all the tax types and taxable periods covered by the VAAP Availment as well as the corresponding VAAP amounts paid for the tax types and taxable periods covered by the availment;
- 4.3.5.2 Taxpayers who were sent LNs but only availed VAAP in respect to the taxable period where sales discrepancy has been noted by the BIR as well as the minimum and additional VAAP amounts paid for the tax types and taxable period covered by the availment ;
- 4.3.5.3 Taxpayers who were sent LNs but did not avail of VAAP; and
- 4.3.5.4 Taxpayers who were not sent LNs but availed of VAAP and VAAP amounts paid for the tax types and taxable periods covered by the VAAP availment.

4.3.4 Soft copies of information encoded shall be sent by the RDOs to the TWG-ISG every Monday of the following week which shall then consolidate such information with the VAAP payments extracted from the LBDES.

4.4 Disposition of VAAP Availments.-

4.4.1 Original copies of the VAAP-AF together with attachments including case dockets of those with LAs issued shall be submitted to the TWG-FVD within one (1) week from receipt thereof.

4.4.2 TWG-FVD shall then validate the VAAP-AFs received with the discrepancy reports continually being uncovered by the System. If additional discrepancies are uncovered on top of what has been previously discovered and/or voluntarily disclosed, the same shall be referred back to the RDO for the execution of the actions provided in 2.9 above.

4.4.3 Based on the additional discoveries made by the BIR, RDOs shall seek additional VAAP payment from the taxpayer if the amount of additional discrepancy is less than the thresholds provided in 2.9 above or shall proceed with appropriate enforcement action of audit, closure or criminal complaint upon receipt of directive from the Commissioner through the TWG-FVD.

4.4.4 For those taxpayers who have incomplete availment or with no VAAP availment despite receiving LNs from the BIR, percentage of sales discrepancy in the Letter Notice shall be analyzed by the TWG-FVD and subsequent enforcement actions of audit, closure of business or criminal prosecution shall be recommended pursuant to guidelines which shall be issued for the purpose.

4.5 **Monitoring** - The TWG-ISG shall then supply the VAT-PCC, ODCIR-OG, and CIR every Friday of the following week with the consolidated VAAP Management Report Information which will be used to strictly monitor the progress of activities of all Offices involved in the Program and shall be a basis for MANCOM discussion of revenue generated, problems encountered and other matters relative thereto.

Section 5. Effectivity Clause. - This Order shall take effect immediately.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue