TAX AMNESTY

The President, in her proposed national budget for fiscal year 2005, identified several legislative measures aimed at enhancing public sector revenue mobilization. Among the package of revenue measures for congressional approval is a general tax amnesty.

Q: What is tax amnesty?

Tax amnesty is defined as a measure that condones the liabilities incurred by a taxpayer due to his incorrect or non-payment of taxes on condition that the tax filer complies with certain requirements (Yoingco, 1998), such as the mandatory filing of a statement of assets, liabilities and networth (SALN).

Amnesty schemes vary depending on the type of tax that is eligible for condonation, the taxable period covered, and the degree of offense—e.g., those with pending cases in court are ineligible for amnesty if specifically indicated in the law or regulation.

Q: What are the justifications for tax amnesty?

There are various reasons for offering tax amnesty. Some governments need immediate additional collection to finance their operations, projects and standing obligations. Other countries expect that through voluntary disclosure, it could broaden the tax base. Tax amnesty could also reduce backlog in paperwork, thus, minimizing the cost of tax administration.
Tax amnesty is a controversial revenue tool for the purpose of raising short-run revenues. It brings expectations of another tax condonation in the future, hence, does not ensure higher compliance rate after its implementation. Controversy in tax amnesty revolves around the issue of government’s inability and inefficiency in enforcing tax laws. It is perceived as a way to relieve errant taxpayers and in the process disregarding the efforts of the more conscientious ones (Alm, 1998).

Q: What are the different forms of tax amnesty?

Amnesty programs in the past were mostly administrative measures (see table 1). Since the Marcos regime, only one tax amnesty measure was enacted by Congress. Republic Act 7498 that was passed in 1992 during the Aquino administration was designed to encourage the repatriation of foreign currencies/securities which were illegally transferred abroad.

Q: How did past Philippine tax amnesties fare?

Tax amnesty programs implemented during the Marcos and Aquino administrations generated a total of P2.87 billion. This translates to an average annual collection rate of only 1.6% of total revenues of the Bureau of Internal Revenue (CPBD, 2003).
### TABLE 1
ADMINISTRATIVE TAX AMNESTY MEASURES
MARCOS TO ARROYO ADMINISTRATION

<table>
<thead>
<tr>
<th>MARCOS</th>
<th><strong>ON UNTAXED INCOME/WEALTH:</strong>&lt;br&gt;PD 23 (1972) AS AMENDED BY PD 67 (1972); PD 156 (1973); PD 161 (1973);&lt;br&gt;PD 164 (1973); PD 174 (1973); PD 370 (1974); PD 563 (1974);&lt;br&gt;PD 157 (1973) AS AMENDED BY PD 370 (1974); PD 631 (1975) AS AMENDED BY PD 662 (1975); PD 676 (1975); PD 1740 (1980) AND PD 1840 (1981)</th>
<th><strong>ON UNTAXED/IMPROPERLY TAXED MOTOR VEHICLE</strong>&lt;br&gt;PD 52 (1972)</th>
<th><strong>ON UNTAXED OR IMPROPERLY TAXED GOODS</strong>&lt;br&gt;PD 53 (1972)</th>
<th><strong>ON DELINQUENT ACCOUNTS</strong>&lt;br&gt;PD 68 (1972)</th>
<th><strong>ON NON-FILERS</strong>&lt;br&gt;PD 213 (1973)</th>
<th><strong>ON FILIPINOS RESIDING ABROAD</strong>&lt;br&gt;PD 201 (1973)</th>
<th><strong>ON SUBMISSION OF SALN</strong>&lt;br&gt;PD 379 (1974) AS AMENDED BY PD 563 (1974)</th>
</tr>
</thead>
<tbody>
<tr>
<td>AQUINO</td>
<td><strong>ON INCOME TAX</strong>&lt;br&gt;EO 41 (1986) AS AMENDED BY EO 54 (1986)</td>
<td><strong>ON REAL PROPERTY TAX</strong>&lt;br&gt;EO 42 (1986) AS AMENDED BY EO 104 (1986)</td>
<td><strong>ON TRAVEL TAX</strong>&lt;br&gt;EO 282 (1987)</td>
<td><strong>FOR FILING OF STATEMENT OF NETWORTH</strong>&lt;br&gt;EO 41 (1986)</td>
<td><strong>FOR LAST PRIORITY IN AUDIT AND ASSESSMENT</strong>&lt;br&gt;RMC 75-90</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RAMOS</td>
<td><strong>VOLUNTARY ASSESSMENT PROGRAM (VAP I)); RMO 59-97 AS AMENDED BY RMO 60-97 AND RMO 63-97, RMO 61-97</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ESTRADA</td>
<td><strong>ECONOMIC AND RECOVERY ASSISTANCE PAYMENT (ERAP) PROGRAM</strong>&lt;br&gt;RR 2-99 AS AMENDED BY RR 6-99</td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>

Acronyms: PD-Presidential Decree, EO-Executive Order, RR-Revenue Regulation, RMO-Revenue Memorandum Order, and RMC-Revenue Memorandum Circular.
On the other hand, collection performance from amnesty programs during the period 1997 to 2004 was able to raise a total of P19.20 billion (see Table 2). The Voluntary Assessment and Availment Program (VAAP) alone, which was implemented between July 2002 and December 2003 generated a total of P6.25 billion.

<table>
<thead>
<tr>
<th>Amnesty Program</th>
<th>Implementation Period</th>
<th>Collections (in billion pesos)</th>
<th>% of BIR Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Last Priority in Audit And Investigation</td>
<td>1997</td>
<td>0.80</td>
<td>0.25</td>
</tr>
<tr>
<td>RMO 61-97 for delinquent accounts</td>
<td>1997</td>
<td>0.15</td>
<td>0.05</td>
</tr>
<tr>
<td>VAP</td>
<td>1997</td>
<td>2.77</td>
<td>0.88</td>
</tr>
<tr>
<td>ERAP</td>
<td>1999</td>
<td>3.53</td>
<td>1.03</td>
</tr>
<tr>
<td>VAP II</td>
<td>2001</td>
<td>3.45</td>
<td>0.88</td>
</tr>
<tr>
<td>VAAP</td>
<td>July ’02 - Dec ’03</td>
<td>6.25</td>
<td>-</td>
</tr>
<tr>
<td>CTRP</td>
<td>April ’04 - present</td>
<td>2.26</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Collection</strong></td>
<td></td>
<td><strong>19.20</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source of basic data: Department of Finance

In a presentation made to the House Committee on Ways and Means last 1 September 2004, the Department of Finance (DOF) said that since tax amnesties were practically a yearly affair in the past, collections were relatively minimal except during dramatic turning points in the country’s political history—e.g., declaration of Martial Law in 1972 and the 1986 People Power revolution when everyone had high expectations of positive change.
Meanwhile, the International Monetary Fund (IMF) team which reviewed the country’s economic performance in July 2004 commented that tax amnesty will only make the government poorer. IMF stressed the need to resist proposals for new tax amnesties given the harmful impact that repeated amnesties have on incentives for taxpayer compliance.

Q: What were the experiences in other countries?

Argentina’s tax amnesty in 1987 was offered to foreign and local investors who were willing to repatriate the capital that had illegally left the country. The government did not collect taxes from all the repatriated funds as long as they are invested in the country. However, since there was no improvement in enforcement efforts and it was not complemented with necessary changes in fiscal policy, the tax amnesty program was considered a failure.

The French tax amnesty, like Argentina, was implemented to recover income that was illegally transferred abroad. Again, the program was not accompanied by strict enforcement efforts such as confiscation of properties and imprisonment of tax evaders.

Ireland’s case is inspiring. While offering tax amnesty, the government strengthened tax audits and published the names of delinquent taxpayers in leading newspapers. Irish authorities also introduced a new tax system that took effect after the lapse of the tax amnesty period. The new system included an increase in interest and penalty rates, as well as seizure powers of tax enforcers. As a result of these efforts, the Irish government raised
a total of $750 million which was way above the expected revenue collection of $50 million.

Despite India’s failure in previous amnesty programs, the one implemented in 1997 was considered a success. Collections from more than 350,000 taxpayers reached $2.5 billion—i.e., almost three times the total revenues during the previous amnesties. The Indian government encouraged more property owners to avail of the tax amnesty by allowing them to declare their taxable assets at purchased value (instead of current prices). India also intensified its public awareness program through extensive media coverage of the amnesty program and endorsements by well-known celebrities.

**Q: What are the legislative proposals filed in the 13th Congress?**

The House Committee on Ways and Means endorsed HB 2933 (Committee Report No. 26) consolidating the provisions of HBs 552, 2513, 2652 and 2657. The proposed amnesty program covers all unpaid national internal revenue taxes imposed by the national government for taxable year 2003 and prior years.

In general, the amnesty payment should be equal to 3% of taxpayer’s declared networth as of 31 December 2003. However, each type of taxpayer shall be required to pay whichever is higher between the computed 3% based on networth and the minimum amnesty payment listed below.
For employees ..................................................P  20,000
For self-employed/professionals ........................   50,000
For estates and trusts ................................. 100,000

For corporations with capitalization of:

- Less than P5M .......................................  25,000
- Between P5M - 20M ............................. 100,000
- Between P20M - 50M ..........................  250,000
- More than P50M ..................................  500,000

To encourage repatriation of foreign-based assets and investments, a preferential amnesty rate of 1% is being proposed. Amnesty payment shall be based on the current peso value of repatriated foreign currency assets and investments.

However, taxpayers with pending cases will be imposed higher rates of 10% and 20%. BIR assessments that are not yet submitted to court for litigation may be condoned subject to payment of 10% of the basic tax due. Meanwhile, tax cases already filed in court shall be slapped a higher rate of 20%. Once an errant taxpayer avails of tax amnesty, he is automatically relieved of paying the basic tax and the interest, surcharges and penalties that could have accrued/compounded annually had the case been pursued in court.
Q: What are the prerequisites to avail of tax amnesty?

Most of past tax amnesty programs required tax evaders to just come out and pay certain percentage of their tax dues. In 1974, however, those who wished to avail of the tax amnesty under PD 379 were required to file a Statement of Assets, Liabilities and Networth (SALN) to establish their tax liabilities. A similar requirement was made in one of the tax amnesty programs (under EO 41) in 1986, during the Aquino Administration.

Under HB 2933, those who will apply for tax amnesty are required to file with BIR a Tax Amnesty Return accompanied by SALN as of 31 December 2003. The taxpayers will also have to pay the corresponding amnesty tax dues within four (4) months following the effectivity of the law.

Q: How can SALN further improve the accuracy of assessments?

The SALN contains data that can be critical in determining the right tax dues. It could serve as reference document in future tax investigation. What is critical though is how the BIR manages and utilizes the data. According to the DOF, the SALN which was required from the amnesty taxpayers in 1974 and in 1986 were not used to facilitate tax administration. The data went to waste since the BIR had no capability to preserve, process and manage vital information from the SALN. However, difficulty in data management could now be remedied with the computerization of the BIR and application of latest information technology.
The DOF suggested that filing of SALN should not be a one-time requirement under the tax amnesty program. Like those employed in government, taxpayers from the private sector should regularly update their networth. This will allow the BIR to validate the taxpayer’s annual tax declaration and make proper assessment of taxable sales, and receipts or income.

House Bill 2895 authored by Rep. Jesus Crispin Remulla requires the annual submission of SALN by all taxpayers whose income are more than P200,000 or those who own real and/or personal properties with an acquisition cost of P500,000 as of 31 December 2004. The measure also seeks to penalize those who intentionally fail to file their SALN or misdeclare their networth. The proponent believes that the SALN will establish benchmarks for assessment purposes and will complement BIR’s ongoing tax mapping and zoning activities.

Q: What measures should government take to ensure success of a tax amnesty?

The success of an amnesty program largely depends on government’s commitment to strictly enforce tax laws that will impose stiffer penalties to tax evaders who opt not to avail of the amnesty. This could mean increasing penalties and interest charges for misdeclaration/delayed payment of tax dues and imprisonment of tax evaders.
While offering amnesty, government must strengthen the seizure powers of tax administrators, and intensify tax mapping and audit activities. Furthermore, government should increase public awareness about the amnesty program through extensive media coverage. Publication of names of delinquent taxpayers in leading newspapers should also be considered to encourage voluntary disclosure.

To warrant the collection of additional revenues and to relieve government of the expensive and tedious litigation process, tax amnesty may be offered to those with pending cases in courts as long as the payment is more than 20% of total tax dues had these cases been pursued in courts. Total tax dues consist of the basic tax assessment plus interests, surcharges, and penalties as of the time when tax amnesty is availed of.

References:
DOF presentation before the House Committee on Ways and Means on 1 September 2004 “Tax Policy and Administration”, by the World Bank (accessed through WB website).