

# **TAX AMNESTY ACT**

## **(REPUBLIC ACT NO. 11213)**

**May 18, 2019**

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# Presentation Outline

- Concept of Tax Amnesty
- Tax Amnesty Act's Timeline
- Tax Amnesty Bills
- Tax Amnesty Act after the President's line item vetoes:
  - Part I – Estate Tax Amnesty and relevant provisions of the Draft Implementing Rules and Regulations (As of April 10, 2019)
  - Part II – Tax Amnesty on Delinquencies and its Implementing Rules and Regulations (Revenue Regulations No. 4-2019)

# The Concept of Tax Amnesty

# What is Tax Amnesty?

Tax amnesty, as defined by the Supreme Court, is a “general pardon or intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of evasion or violation of a revenue or tax law.”

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

# Advantages of Tax Amnesty

- Raises short-term revenue;
- Enhances tax compliance by giving errant taxpayers a fresh start;
- Broadens the tax base by encouraging voluntary disclosure;
- Promotes reconciliation between the government and its citizenry;
- Increases the level of tax consciousness of the public;
- Helps reduce backlog on paperwork and arrears; and
- Eases tax administration as tax enforcers no longer need to go through the rigors of identifying, verifying, and prosecuting tax evaders.

# Disadvantages of Tax Amnesty

- Provides negative effect on honest taxpayers who may view the amnesty as unfair to them;
- Undermines the efforts to collect taxes in a timely manner since taxpayers might wish to wait for future amnesties instead of fulfilling their tax obligations on time; and
- Maybe interpreted as an admission of inefficiency and ineffectiveness on the part of the tax administration to enforce tax laws.

# Timeline of the Tax Amnesty Act

**February 13, 2017** – House Bill (HB) No. 4814 (Estate Tax Amnesty Bill) was approved.

**October 9, 2018** – Senate Bill (SB) No. 2059 was filed in the Senate, in view of HB No. 3814.

**November 14, 2018** – HB No. 8554 was filed.

**November 2018** – SB No. 2059 and HB No. 8554 were approved on 3<sup>rd</sup> and final reading.

**December 4, 2018** – Commencement of Bicameral conference committee meetings.

# Timeline of the Tax Amnesty Act

**December 12 and 13, 2018** – Bicameral Conference Committee report was approved by the House and the Senate.

**January 17, 2019** – enrolled copy of the bill was transmitted to the President.

**February 14, 2019** – The Tax Amnesty Act was signed by the President with partial veto.

**February 19, 2019** – R.A. 11213 was published.

**April 9, 2019** – Revenue Regulations No. 4-2019 was published.

**April 24, 2019** – RR No. 4-2019 took effect.



# Estate Tax Amnesty Bills

House Bill No. 8554  
(Rep. Romero, et. al.)

Senate Bill No. 2059  
(Pimentel et. al)

Composed of four (4) parts, to wit:

- Part I – Estate Tax Amnesty
- Part II – General Tax Amnesty
- Part III –Tax Amnesty on Delinquencies
- Part IV – General Provisions

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- Part I – Estate tax Amnesty
- Part II – General Tax Amnesty
- Part III –Tax Amnesty on Delinquencies
- Part IV – General Provisions

# Estate Tax Amnesty Bills

House Bill No. 8554

Senate Bill No. 2059

## Coverage

Estate taxes for estates of decedents who died in 2017 and prior years, with or without assessment duly issued therefore, that have remained unpaid as of December 31, 2017.

## Who may file?

The executor, administrator, or in the absence thereof, the legal heirs, transferees or beneficiaries

## When to file?

Within two (2) years from the effectivity of the implementing rules and regulations (IRR).

## When to pay?

At the time of filing of the return.

# Estate Tax Amnesty Bills

House Bill No. 8554	Senate Bill No. 2059
<b>Where to file?</b>	
RDO which has jurisdiction over the last residence of the decedent.	RDO which has jurisdiction over the last residence of the decedent; RDO 39 in case of non-residents.
<b>Tax Base</b>	
Decedent's total net estate* at the time of death (if no estate tax was filed), or net undeclared estate** (if return was previously filed)	
*Net estate – gross estate less allowable deductions provided in the Tax Code applicable at the time of death	
**Net undeclared estate – the difference between the total net estate valued at the time of death and the net estate previously filed	

# Estate Tax Amnesty Bills

House Bill No. 8554

Senate Bill No. 2059

**Tax Rate:** Six percent (6%)

## Persons Disqualified from Estate Tax Amnesty

1. Those falling under the jurisdiction of the PCGG;
2. Those involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act and under the Act Penalizing the Crime of Plunder;
3. Those with pending cases filed in the appropriate court involving violations of the AMLA;
4. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the NIRC of 1997, as amended.
5. Those involving felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
6. Tax cases subject of final and executory judgement by the Courts.

# Estate Tax Amnesty Bills

House Bill No. 8554	Senate Bill No. 2059
<b>Presumption of Correctness of Estate Tax Amnesty Return</b>	
Presumed as true and correct except where the net estate are proven to be understated by 30% or more.	
The proof of understatement shall be established by the BIR in a proceeding initiated by the BIR or by a third party.	

# Estate Tax Amnesty Bills

House Bill No. 8554

Senate Bill No. 2059

## Immunities and Privileges

Immunity from the payment of estate taxes, as well as civil, criminal, or administrative penalties under the NIRC of 1997, as amended.

The books of accounts and other records of the TP for the years covered by the ETA availed shall not be examined.

Immunity from the payment of estate taxes, as well as increments thereto, arising from the failure to pay any and all estate taxes for TY 2017 and prior years, and from all appurtenant civil, criminal, and administrative cases and penalties under the NIRC of 1997, as amendment.

# Estate Tax Amnesty Bills

House Bill No. 8554

Senate Bill No. 2059

## Presumption of Correctness of Estate Tax Amnesty Return

Inadmissibility of the Taxpayer's Estate Tax Amnesty returns as evidence in all proceedings related to estate settlement cases before any judicial, quasi-judicial, or administrative bodies in which taxpayer is the defendant or respondent, and except for the purpose of ascertaining the gross estate, the same shall not be examined, inquired or looked into by any person or government office.

# TAX AMNESTY ACT

## Republic Act No. 11213 (CTRP Package 1B)



# Tax Amnesty Bills vs. Tax Amnesty Act

Provisions under the Tax Amnesty Bills (HB No. 8554 & SB No. 2059)	Tax Amnesty Act (RA No. 11213)
<b>Estate Tax Amnesty</b>	APPROVED
One-time filing of estate tax amnesty return and payment of the amnesty tax	<b>VETOED</b>
Conclusive presumption of correctness of the estate tax amnesty returns	<b>VETOED</b>
<b>General Tax Amnesty</b>	<b>VETOED</b>
<b>Tax Amnesty on Delinquencies</b>	APPROVED

# Estate Tax Amnesty (ETA)

What estates are covered by the  
ETA?

Estates of decedents who died on or before  
December 31, 2017 (with or without  
assessments).

# Estate Tax Amnesty (ETA)

## What estates are NOT covered by the ETA?

- (1) Estate tax cases that have become final and executory, and

# Estate Tax Amnesty (ETA)

(2) Properties involved in cases pending in appropriate courts:

- a. Those falling under the jurisdiction of the PCGG;
- b. Those involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act and under the Act Penalizing the Crime of Plunder;
- c. Those involving violations of the AMLA;
- d. Those involving tax evasion and other criminal offenses under Chapter II of Title X of the Tax Code; and
- e. Those involving felonies of frauds, illegal exactions and transactions, and malversation of public funds and property.

# Estate Tax Amnesty (ETA)

## Who may file the ETA return?

- (1) The executor or administrator of the estate, or
- (2) If there is no executor or administrator:
  - a. legal heirs
  - b. transferees, or
  - c. beneficiaries

# Estate Tax Amnesty (ETA)

## How to avail of the ETA:

- (1) Prepare the sworn ETA Return
- (2) File the Sworn ETA Return
- (3) Secure an Acceptance Payment Form from the RDO
- (4) Pay the amnesty tax
- (5) Submit the Acceptance Payment Form and ETA Return to the BIR
- (6) BIR shall issue a Certificate of Availment of the ETA within 15 calendar days

## Sworn ETA Return

**NET ESTATE** refers to the **gross estate less all allowable deductions** as provided in the NIRC of 1997, as amended, or the applicable estate tax laws prevailing at the time of death of the decedent;

**NET UNDECLARED ESTATE** refers to the difference between the total net estate valued at the time of death and the net estate previously declared with the BIR,

\*The provisions of the NIRC of 1997, as amended, or the applicable estate tax laws prevailing at the time of death of the decedent, on valuation, manner of computation, and other related matters shall apply suppletorily.

## Draft IRR for the ETA (April 10, 2019)

**Section 7. Valuation of the Gross Estate** – The properties comprising the gross estate shall be valued, in general, on the fair market value as of the time of death of the decedent.

If the property is a real property, the fair market value shall be the higher value between the zonal value as determined by the Commissioner and the fair market value as shown in the schedule of values fixed by the provincial and city assessors.



# Draft IRR for the ETA (April 10, 2019)

## Section 7. Valuation of the Gross Estate – *(Continued...)*

In the case of shares of stock, the fair market value shall be:

- a. Listed and traded in the stock exchange – The value at the time of death or the closing rate nearest to the date of death
- b. Not listed shares – The book value for common shares and par value for preferred shares as shown in the audited financial statement of the issuing corporation nearest to the date of death of the decedent. The valuation of these shares shall be exempt from the provisions of Revenue Regulations No. 06-2013, as amended.

# Draft IRR for the ETA (April 10, 2019)

## Section 7. Valuation of the Gross Estate – *(Continued...)*

Proprietary shares in any association, recreation or amusement club (such as golf, polo, or similar clubs) shall be valued using the transaction value on the date of death or nearest to the date of death, if none is available on the date of death itself, as published in the newspaper of general circulation.

Cash in bank in local and foreign currency shall be based on the peso value of the balance at the date of death.

# Draft IRR for the ETA (April 10, 2019)

## Section 7. Valuation of the Gross Estate – *(Continued...)*

To determine the value of the right to usufruct, use or habitation, as well as of that of annuity, there shall be taken into account the probable life of the beneficiary in accordance with the latest basic standard mortality table, to be approved by the Secretary of Finance, upon recommendation of the Insurance Commissioner.

## Draft IRR for the ETA (April 10, 2019)

**Section 10. Estate Tax Amnesty Return for Newly Discovered or Undeclared Properties.** - In case the legal heirs/executor/administrator of the estate has newly discovered properties which were not declared in the previously filed return, the legal heirs/executors/administrators, can file an estate tax amnesty return or an amended estate tax amnesty return, whichever is applicable, and pay the amnesty tax as stated in Sec. 5, without penalties, based on the net taxable value of the net undeclared estate as defined in Sec. 4 (c) within two (2) years from the effectivity of these Regulations.

**Newly discovered or undeclared properties, after the lapse of the two-year period from the effectivity of these Regulations, shall be subject to the applicable estate tax rate prevailing at the time of death including interest and penalties due thereon.**

# Draft IRR for the ETA (April 10, 2019)

## **Section 11. Estate with Properties Subject of Taxable Donation/Sale. –**

**Properties** included in the estate tax amnesty availment **which are likewise subject of taxable donation/sale shall be assessed of the corresponding donor's/capital gains/documentary stamp taxes at the time of donation/sale including penalties, if applicable.**

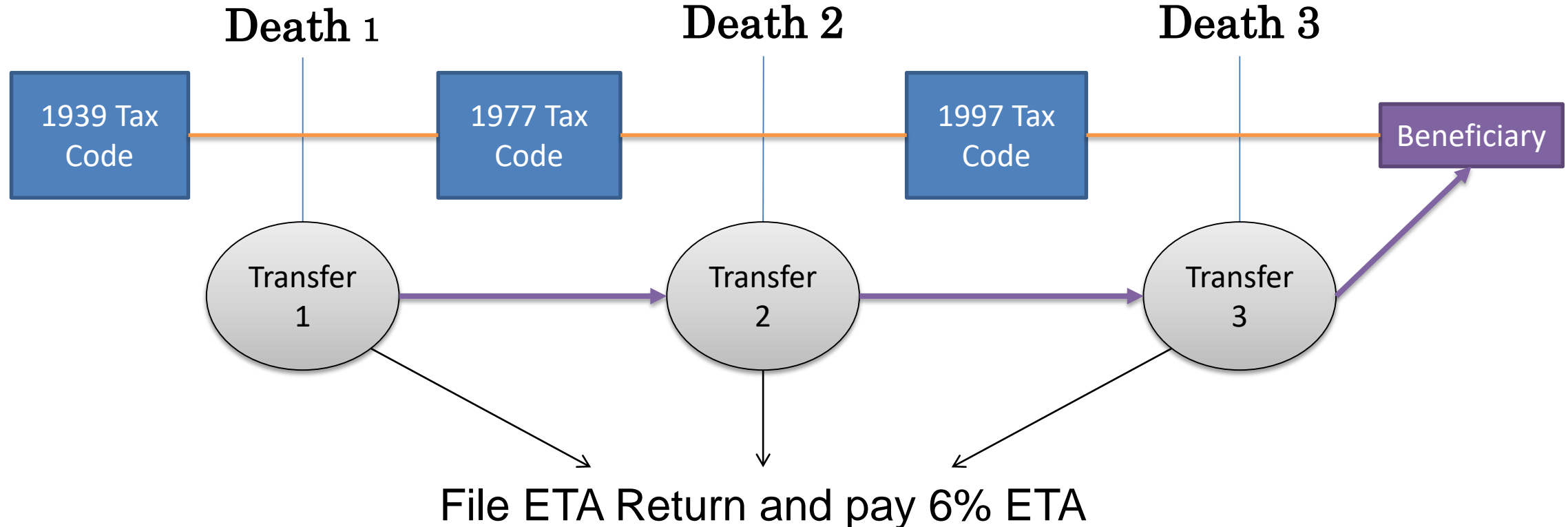
## Line item veto under the ETA

**Section 6. *Availment of the Estate Tax Amnesty; When and Where to File and Pay.*** - “xxx if the estate involved has properties which are still in the name of another decedent or donor, the present holder, heirs, executors or administrators thereof shall only file one (1) Estate Tax Amnesty Return and pay the corresponding estate amnesty tax thereon xxx”

**“I believe that there is a need to apply the estate tax amnesty at every stage of the transfer of the property... The tax on estates is imposed not because of the property itself but on the privilege of transferring the property to the heirs. The flat rate of six (6) percent estate amnesty tax, without penalties, imposed at every stage of transfer is more than a fair imposition on the privilege.”**

– President’s Veto Message

# Effect of the line item veto on one-time declaration and settlement of estate taxes



# Filing of the sworn ETA Return

## When to File:

- Within two (2) years from the effectivity of the Implementing Rules and Regulations (IRR).

## Where to File:

- If a resident at the time of death, with the RDO which has jurisdiction over the last residence of the decedent.
- If a non-resident, with RDO No. 39 or any other RDO as indicated in the IRR.



## Line item veto under the ETA

**Section 7. *Presumption of Correctness of the Estate Tax Amnesty Returns.*** -  
The Estate Tax Amnesty Returns shall be conclusively presumed as true, correct, and final upon filing thereof, and shall be deemed complete upon full payment of the amount due.

**“xxx the valuation of the subject properties is a technical aspect that cannot be left to mere self-declaration. An erroneous valuation not only impacts the revenue for the current estate but will also carry-over to subsequent transfer of the property... Implementing agencies cannot act as mere stamping pads of approval and instead must be empowered to correct apparent misinformation and mis-declaration made in the course of the amnesty. There must be an opportunity to evaluate the truthfulness of the declaration made by the taxpayers. xxx”**

– President’s Veto Message

# Secure Acceptance Payment Form from the RDO

The RDO shall issue and endorse an Acceptance Payment Form for the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the tax amnesty payment. Proof of settlement, whether judicial or extrajudicial, must be attached to verify mode of transfer and property recipients. *(Sec. 6, RA No. 11213)*

# Payment of the Amnesty Tax

## AMNESTY TAX RATE: Six percent (6%)

If an estate tax was earlier filed, the 6% estate amnesty tax will be based on the net undeclared estate.

If allowable deductions exceed the gross estate, a minimum amnesty tax of Php 5,000.00 shall be paid.

# Payment of the Amnesty Tax

## When to Pay:

-The payment of the amnesty tax shall be made at the time the return is filed.

## Where to Pay:

-Authorized agent bank (AAB), or in the absence thereof, the revenue collection agent or municipal treasurer concernec.

\*Availment of tax amnesty and issuance of Acceptance Payment Form do not imply any admission of criminal, civil or administrative liability on the part of the availing estate. *(Sec. 6, RA No. 11213)*

# Submission of the Acceptance Payment Form and ETA Return to the BIR

A **Certificate of Availment** shall be issued by the BIR within 15 calendar days from the submission to the BIR of the Acceptance Payment Form and the ETA Return.

Otherwise, **duplicate copies** of the Acceptance Payment Form **stamped as received**, and the **ETA Return** shall be deemed as **sufficient proof of availment**. (*Sec. 7, RA No. 11213*)

# Immunities and privileges under the ETA

- Immunity from payment of all estate taxes, any increments and additions thereto, arising from the failure to pay any and all estate taxes for taxable year 2017 and prior years, and from civil, criminal or administrative cases and penalties under the Tax Code.

- The BIR shall set up a system enabling the transfer of title over properties to heirs and/or beneficiaries, and cash withdrawals from the bank accounts of the decedent. (Sec. 8, *RA No. 11213*)

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# General Tax Amnesty

Vetoed by the President

*“A General Tax Amnesty that is overgenerous and unregulated and would create an environment ripe for future tax evasion, the very thing we wish to address.”*

*–The President’s Veto Message*

# General Tax Amnesty

Among the reasons given for the veto were the absence of provisions:

1. Breaking down the walls of bank secrecy;
2. Setting the legal framework to comply with international standards on exchange of information for tax purposes;
3. Safeguarding against abuse by declaring untruthful asset or net worth.



# Tax Amnesty on Delinquencies (TAD)

All national internal revenue taxes such as, but not limited to:

Income Tax
Withholding Tax
Capital Gains Tax
Donor's Tax
Value-Added Tax

Other Percentage Tax	
Excise Tax	
Documentary Stamp Tax	
Value-Added Tax	By the Bureau of Customs
Excise Tax	

# Tax Amnesty on Delinquencies (TAD)

## Cases covered by TAD:

- a. Delinquencies and assessments that have become final and executory on or before the effectivity of the IRR;
- b. Tax cases subject of final and executory judgment by the courts on or before the effectivity of the IRR;
- c. Pending criminal cases with the Department of Justice (DOJ) or the courts for tax evasion and other criminal offenses under Chapter II, Title X and Sec. 275 of the Tax Code; and
- d. Cases involving withholding agents who withheld taxes but failed to remit the same.

## RR No. 4-2019 (Effective April 24, 2019)

**Sec. 3. Coverage** – All persons with internal revenue tax liabilities covering taxable year 2017 and prior years, may avail of *Tax Amnesty on Delinquencies* within 1 year from the effectivity of the IRR, under any of the following instances:

**A. Delinquent Accounts** as of the effectivity of these Regulations, including the following:

1. Delinquent Accounts *with application for compromise settlement* either on the basis of (a) doubtful validity of the assessment or (b) financial incapacity of the taxpayer, whether the same was denied by or still pending with the Regional Evaluation Board (REB) or the National Evaluation Board (NEB), as the case may be, on or before the effectivity of these Regulations;
2. Delinquent Withholding Tax Liabilities arising from non-withholding tax; and
3. Delinquent Estate Tax liabilities.

# RR No. 4-2019 (Effective April 24, 2019)

*continued...*

- B. With **pending criminal cases** with the DOJ/Prosecutor's Office or the courts for tax evasion and other criminal offenses under Chapter Ii of Title X and Section 275 of the Tax Code, as amended, with or without assessments duly issued;
- C. With **final and executory judgment** by the courts on or before the effectivity of these Regulations; and
- D. **Withholding tax liabilities** of withholding agents arising from their failure to remit withheld taxes.

# RR No. 4-2019 (Effective April 24, 2019)

**DELINQUENT ACCOUNT** – pertains to a tax due from a taxpayer arising from the audit of the BIR which had been **issued Assessment Notices\* that have been become final and executory due to the following instances:**

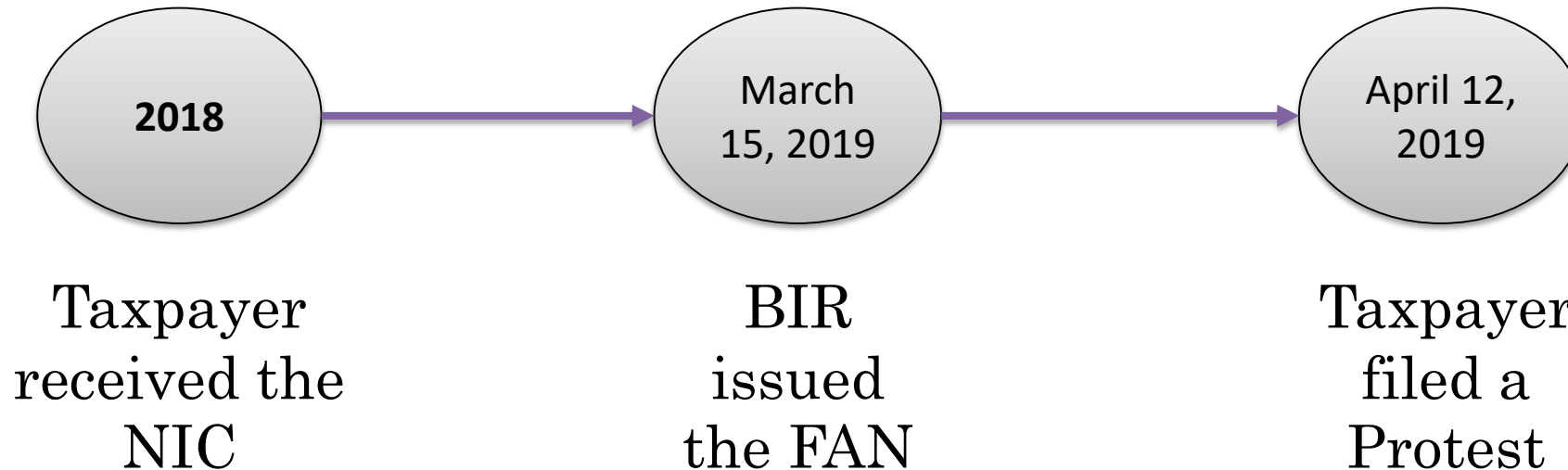
1. Failure to pay the tax due on the prescribed due date provided in the Final Assessment Notice (FAN)/Formal Letter of Demand (FLD) and for which no valid Protest, whether a request for reconsideration or reinvestigation, has been filed within 30 days from receipt thereof;
2. Failure to file an appeal to the Court of Tax Appeals (CTA) or an administrative appeal before the Commissioner of Internal Revenue (CIR) 30 days from receipt of the decision denying the request for reinvestigation or reconsideration; or

## RR No. 4-2019 (Effective April 24, 2019)

3. Failure to file an appeal to the CTA within 30 days from receipt of the Decision of the CIR denying the taxpayer's administrative appeal to the Final Decision on Disputed Assessment (FDDA). *(Sec. 2 of RR No. 4-2019)*

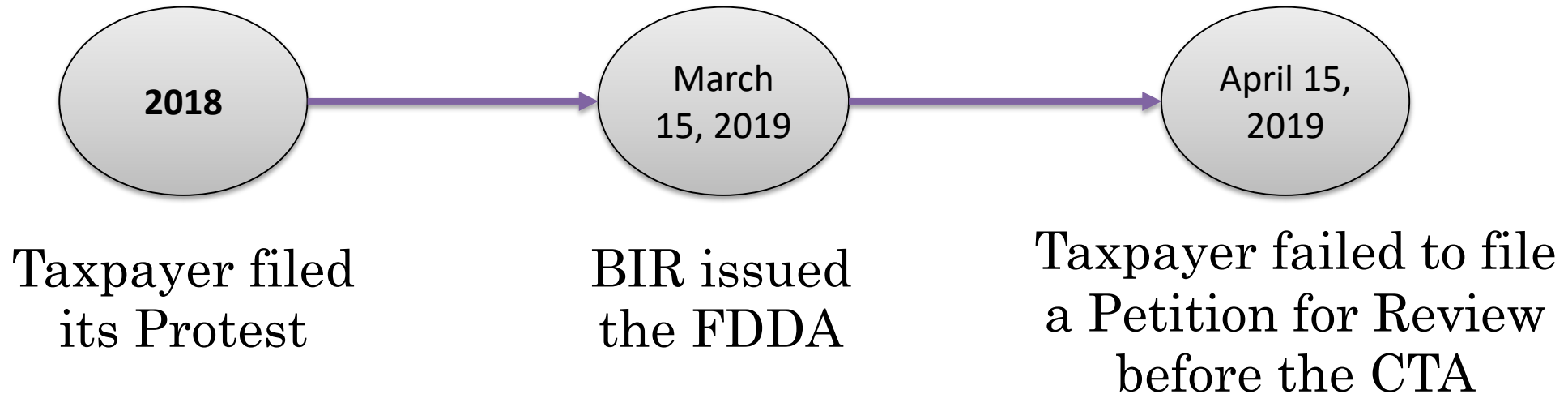
**\*ASSESSMENT NOTICE** refers to a notice issued to a taxpayer stating the amount and basis of the deficiency tax assessed. This term includes FAN/FLD and FDDA; *(Sec. 2 of RR No. 4-2019)*

## A. Delinquencies and assessments that have become final and executory *(1 of 2)*



May the Taxpayer avail of the TAD? **NO.**

## A. Delinquencies and assessments that have become final and executory *(1 of 2)*

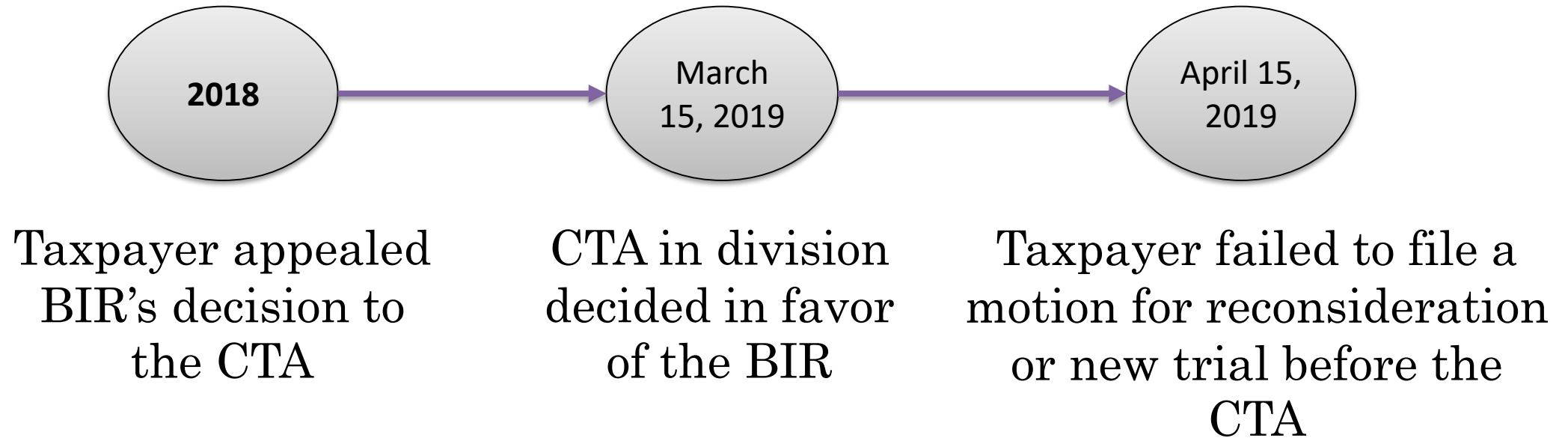


May the Taxpayer avail of the TAD?

**YES.**



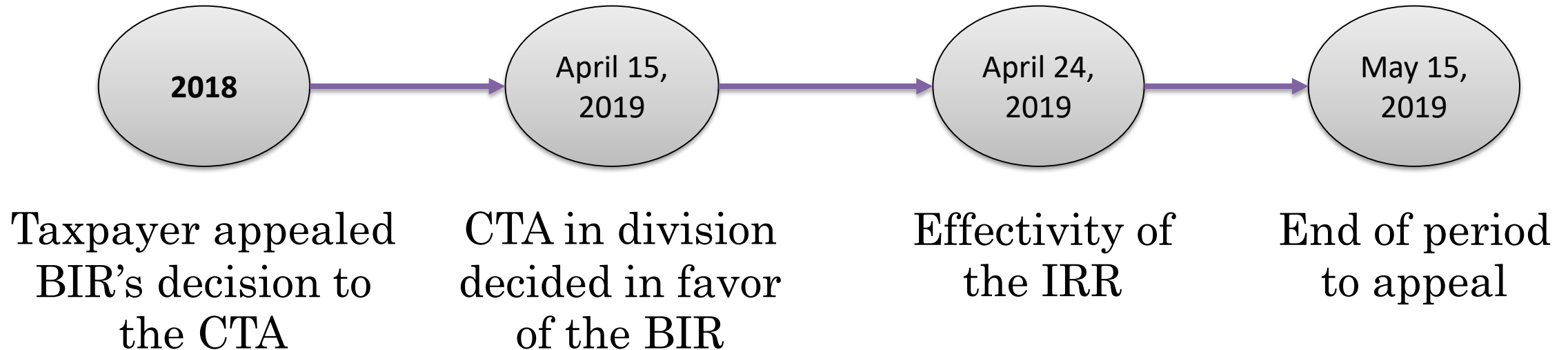
## B. Tax cases subject to final and executory judgment by the courts *(1 of 4)*



May the Taxpayer avail of the TAD?

**YES.**

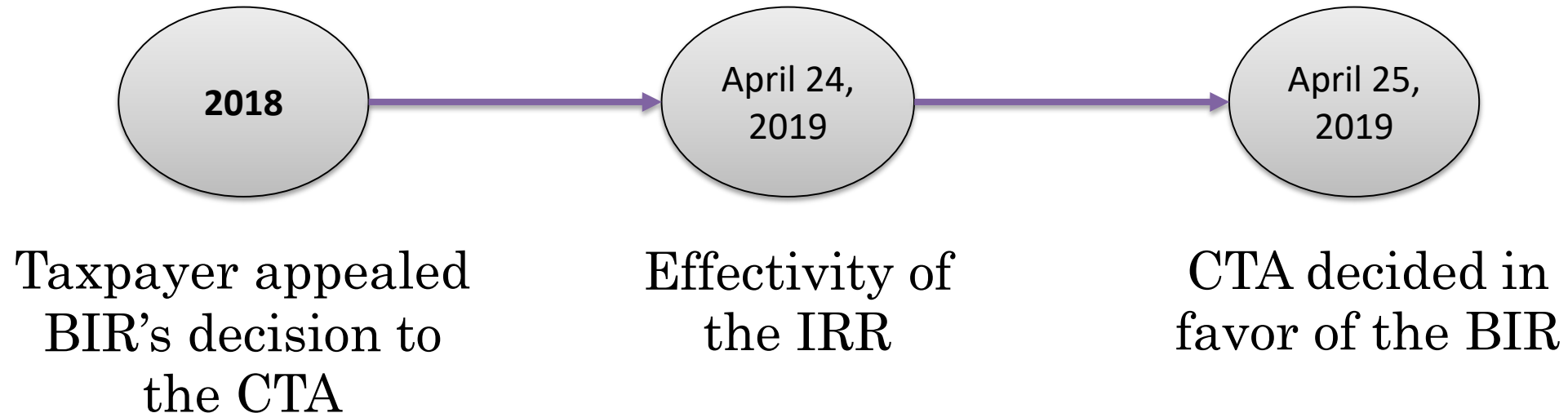
## B. Tax cases subject to final and executory judgment by the courts *(2 of 4)*



May the Taxpayer avail of the TAD?

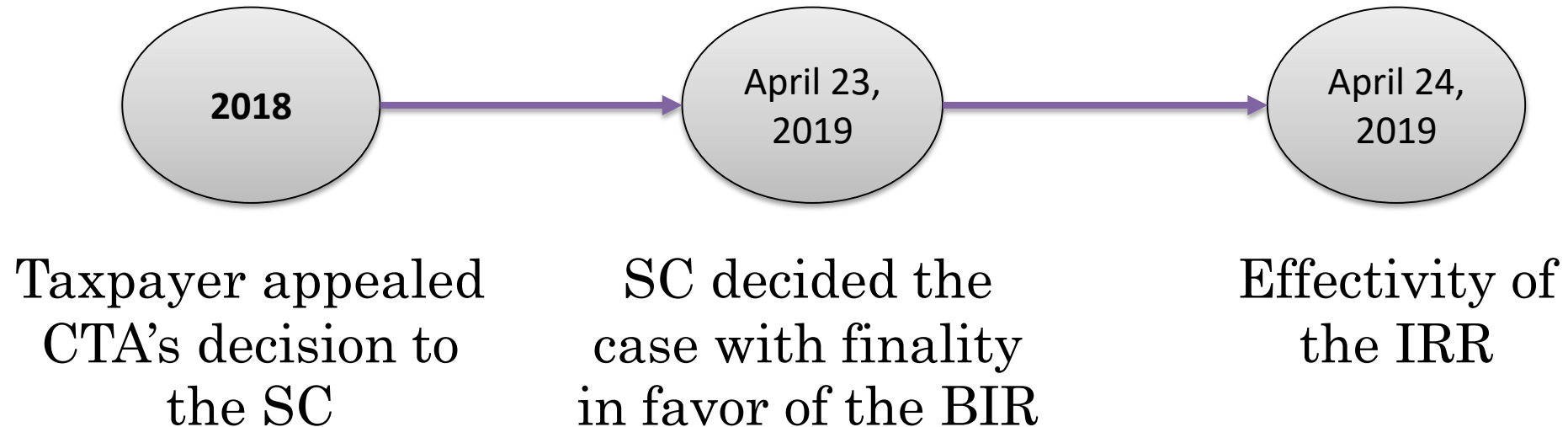
**NO.**

## B. Tax cases subject to final and executory judgment by the courts *(3 of 4)*



May the Taxpayer avail of the TAD? **NO.**

## B. Tax cases subject to final and executory judgment by the courts *(4 of 4)*



May the Taxpayer avail of the TAD? **YES.**

## C. Tax evasion and other criminal offenses under Title X Chapter II of the Tax Code

1. Attempt to Evade or Defeat Tax (*SEC. 254*)
2. Failure to:
  - a. File Return;
  - b. Supply Correct and Accurate Information;
  - c. Pay Tax Withhold and Remit Tax; and
  - d. Refund Excess Taxes Withheld on Compensation (*SEC. 255*)
3. Making False Entries, Records or Reports, or Using Falsified or Fake Accountable Forms (*SEC. 257*)
4. Unlawful Pursuit of Business (*SEC. 258*)
5. Illegal Collection of Foreign Payments (*SEC. 259*)
6. Unlawful Possession of Cigarette Paper in Bobbins or Rolls, Etc. (*SEC. 260*)

## C. Tax evasion and other criminal offenses under Title X Chapter II of the Tax Code

7. Unlawful Use of Denatured Alcohol. (*SEC. 261*)
8. Shipment or Removal of Liquor or Tobacco Products under False Name or Brand or as an Imitation of any Existing or Otherwise Known Product Name or Brand.
4. Unlawful Pursuit of Business (*SEC. 262*)
9. Unlawful Possession or Removal of Articles Subject to Excise Tax without Payment of the Tax (*SEC. 263*)
10. Failure or refusal to Issue Receipts or Sales or Commercial Invoices, Violations related to the Printing of such Receipts or Invoices and Other Violations (*SEC. 264*)

## C. Tax evasion and other criminal offenses under Title X Chapter II of the Tax Code

11. Offenses Relating to Stamps (*SEC. 265*)
12. Failure to Obey Summons (*Sec. 266*)
13. Declaration under Penalties of Perjury (*SEC. 267*)
14. Other Crimes and Offenses
  - a. Misdeclaration or Misrepresentation of Manufacturers Subject to Excise Tax
  - b. Forfeiture of Property Used in Unlicensed Business or Dies Used for Printing False Stamps, Etc
  - c. Forfeiture of Goods Illegally Stored or Removed (*SEC. 268*)

## D. Withholding tax agents who withheld taxes but failed to remit the same

Withholding Agent – is a person required to withhold, account for, and remit within the prescribed period any tax imposed by the 1997 Tax Code, as amended. *(Sec. 2 of RR No. 4-2019)*



# Tax Amnesty on Delinquencies (TAD)

## How to avail of the TAD:

- (1) Prepare the sworn TAD Return and obtain Certificate of Delinquency
- (2) File the (a) Sworn TAD Return and (b) Certificate of Delinquency
- (3) Secure an Acceptance Payment Form from the RDO
- (4) Pay the amnesty tax
- (5) Submit the Acceptance Payment Form and TAD Return to the BIR
- (6) BIR shall issue an Authority to Cancel Assessment within 15 calendar days

# 1. Where to Obtain a Certificate of Delinquency

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
<p><b>Delinquent tax cases, including withholding tax liabilities of withholding agents arising from failure to remit withheld taxes and those with pending or denied application for compromise settlement</b></p>	<p>Large Taxpayers Division (Cebu or Davao)/ Large Taxpayers Collection Enforcement Division (LTCED)</p>	<p>a. Regional Collection Division - For taxpayer-applicants under the jurisdiction of Revenue Regions (RR) Nos. 5, 6, 7 and 8 (Caloocan, Manila, Quezon City and Makati, respectively);</p> <p>b. Revenue District Office (RDO) where the taxpayer-applicant is registered - For other taxpayer-applicants including RDO No. 36 (Puerto Princesa)</p>

# 1. Where to Obtain a Certificate of Delinquency

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
<b>Tax cases subject of final and executory judgment by the courts</b>	Litigation/ Prosecution Division of the National Office, which handled the case	<p>a. Legal Division of the Regional Office - For taxpayer-applicants under the jurisdiction of Revenue Regions (RR) Nos. 5, 6, 7 and 8 (Caloocan, Manila, Quezon City and Makati, respectively);</p> <p>b. Legal Division of the Regional Office or Litigation/Prosecution Division in the National Office which handled the case - For taxpayer-applicants under the jurisdiction of Revenue Regions other than the RRs mentioned under (a) hereof.</p>

# 1. Where to Obtain a Certificate of Delinquency

Nature of Tax Liabilities	Large Taxpayer	Non-Large Taxpayer
<p><b>Tax liabilities covered by a pending criminal cases filed with the DOJ/Prosecutor's Office/Courts</b></p>	<p>Prosecution Division of the National Office</p>	<p>a. Legal Division - For taxpayer-applicants under the jurisdiction of Revenue Regions (RR) Nos. 5, 6, 7 and 8 (Caloocan, Manila, Quezon City and Makati, respectively);</p> <p>b. Legal Division of the Regional Office or Prosecution Division in the National Office which handled the case - For taxpayer-applicants under tire jurisdiction of Revenue Regions other than the RRs mentioned under (a) hereof.</p>

## 2. Filing of the sworn TAD Return

When to File:

- Within one (1) year from the effectivity of the Implementing Rules and Regulations (IRR).

Where to File:

Classification	Place of Filing
Non-Large Taxpayers	Revenue District Office (RDO) where applicant-taxpayer is registered
Large Taxpayers - Cebu or Davao	Large Taxpayers Division (LTD) Office where applicant taxpayer is registered
Large Taxpayers - Excise and Regular	Large Taxpayers Collection Enforcement Division (LTCED)

*Sec. 5 (b) of RR 4-2019*

## 3 & 4. Payment of the amnesty tax

The RDO will issue and endorse an acceptance payment form which will authorize the AAB or the revenue collection agent/municipal treasurer concerned to accept the amnesty tax payment. (Sec. 19 of RA No. 11213)

### *Tax Amnesty Rates*

Delinquent accounts and assessments which have become final and executory	40% of the basic tax assessed
Tax cases subject of final and executory judgment by the courts	50% of the basic tax assessed
Pending criminal cases filed with the DOJ/Prosecutor's Office or the courts for tax evasion and other criminal offenses under Chapter II of Title X and Section 275 of the Tax Code, as amended	60% of the basic tax assessed
Withholding agents who withheld taxes but failed to remit the same to the Bureau	100% of the basic tax assessed

## 3 & 4. Payment of the amnesty tax

### When to Pay:

-The payment of amnesty tax shall be made at the time the return is filed.

### Where to Pay:

-AAB, or in the absence thereof, the revenue collection agent or municipal treasurer concerned.

## 5. Secure an Authority to Cancel Assessment from the BIR

An Authority to Cancel Assessment shall be issued by the BIR in favour of the taxpayer within 15 calendar days from submission to the BIR of the Acceptance Payment Form and the TAD Return.

Otherwise, duplicate copies of the Acceptance Payment Form, stamped received, and the TAD Return shall be deemed as sufficient proof of availment. *(Sec. 20 of RA No. 11213)*



# Confidentiality and Non-use of Information and Data

Any information or data contained in, derived from or provided by a taxpayer in the Tax Amnesty Return, Statement of Total Assets or Statement of Assets, Liabilities, and Net Worth, as the case may be and appurtenant documents shall be confidential in nature and shall not be used in any investigation or prosecution before any judicial, quasi-judicial, and administrative bodies. *(Sec. 21, RA No. 11213)*

# Penalties for Unlawful Divulgence of Information

Sec. 270 of NIRC of 1997	Sec. 270 (as amended)
Fine of not less than Php 50,000.00 but not more than Php 100,000.00, or imprisonment of not less than two (2) years but not more than five (5) years, or both.	Fine of <b>not less than Php 500,000.00 but not more than Php 1,000,000.00</b> , or imprisonment of not less than two (2) years but not more than five (5) years, or both. <i>(Sec. 24, RA No. 11213)</i>

# Penalties for Unlawful Divulgence of Tax Amnesty Return and Appurtenant Documents.

**Any person having knowledge of the Tax Amnesty Return and appurtenant documents:**

Fine of Php 150,000.00 and imprisonment of not less than six (6) years but not more than ten (10) years. *(Sec 25, RA No. 11213)*

**If officer or employee of the BIR or any government entity:**

The penalties under Sec. 270 of the Tax Code, as amended, shall apply:

Fine of Php 500,000.00 to Php 1 Million, and/or imprisonment of 2-5 years. *(Sec 25, RA No. 11213)*

# Comments and questions on the Tax Amnesty Law and its IRR

# Does Sec. 17 (a) of RA No. 11213 contain a misplaced comma?

(a) Delinquencies and assessments, which have become final and executory, including delinquent tax account , where the application for compromise has been requested on the basis of: (1) doubtful validity of the assessment; or (2) financial incapacity of the taxpayer, but the same was denied by the Regional Evaluation Board or the National Evaluation Board, as the case may be, on or before the Implementing Rules and Regulations take effect;

# What about self-assessed tax liabilities?

The [RR No. 4-2019] has **excluded** unpaid tax liabilities arising from non-payment of self-declared or self-assessed tax (i.e., unpaid tax due per return filed). The [RR No. 4-2019] only covers assessments that have become final and executory. **But the law provides for a broader coverage.** It states as follows: “[a] Delinquencies and assessments, which have become final and executory...” **If the law wants to cover only assessments that have become final and executory, it should have deleted the word “delinquencies.”** But by including delinquencies, the law clearly wants to include all that is covered by the said word, which includes self-assessed tax.

# What about criminal cases which do not involve assessments?

The law covers pending criminal cases with the DOJ/Prosecutor's office or the courts for tax evasion or other criminal offenses, with or without assessments duly issued. But to avail himself of amnesty, the taxpayer must pay **60 percent of the tax that is being assessed** (Sec. 4 of RR No. 4-2019). What if a criminal case that is pending with the DOJ or the courts does not include an assessment? How can a taxpayer pay for amnesty since there is no base amount from which the 60- percent amnesty tax due may be derived from?

# How about a taxpayer who withdrew his protest before the effectivity of the IRR?

Assessments that have become final and executory before the effectivity of the implementing rules are covered by the tax amnesty. **What if a taxpayer who protested a final assessment notice decides to withdraw the said protest before the effectivity of the implementing rules, is he still qualified to avail himself of the tax amnesty?** If yes, it is better if the BIR issue a Revenue Memorandum Circular that will affirm this position and lay down the procedure, to this effect.



# How about pending court cases where assessments have already become final and executory?

There are cases that are pending before the courts where a taxpayer is only **questioning the validity of the warrant of distraint and levy or collection notices**. In other words, the BIR has issued **Final Assessment Notices** where the **period to appeal to the CTA has lapsed but the collection has been stalled** because of an appeal by the taxpayer questioning the validity of the collection process. Are these types of cases covered by the tax amnesty?

End of Presentation  
Thank you!