

Philippines

2019 Tax Amnesty

1. What is the Philippine Tax Amnesty?

- The Tax Amnesty Act of the Philippines is a program that offers a limited time opportunity for eligible taxpayers to reduce their outstanding liabilities on a defined amount.
- The enrolled bill is currently awaiting the signature of the President. The Implementing Rules and Regulations (IRR) shall be issued within 90 days from the Tax Amnesty Act's effective date.
- The collection raised from the tax amnesty program shall be used in the creation of a tax database and in the funding of crucial infrastructure projects by the Philippine government.

2. Coverage and Amnesty Rates

Estate Tax Amnesty

- The estate tax amnesty shall cover estate of decedents who died on or before 31 December 2017, whose estate taxes have remained unpaid or have accrued as of 31 December 2017.
- The estate shall pay 6% based on the decedent's total net estate at the time of death or net undeclared estate if an estate tax return was previously filed with the BIR or the minimum estate tax amnesty of P5,000 if allowable deductions are more than the gross estate.

General Tax Amnesty

- The general tax amnesty shall cover all national internal revenue taxes collected by the Bureau of Internal Revenue (BIR), including VAT and excise taxes collected by the Bureau of Customs (BOC), for taxable year 2017 and prior years, that have remained unpaid:
 - a. at the rate of 2% based on the taxpayer's total assets as of 31 December 2017 as declared in the Statement of Total Assets (STA); or
 - b. based on the taxpayer's total networth as of 31 December 2017 as declared in the prescribed Statement of Assets, Liabilities, and Networth (SALN) and in accordance with the following schedule of amnesty tax rates and minimum amnesty tax payments required:

Taxpayer	Amnesty Tax
(a) Individuals, Trusts, and Estates	Higher of 5% of total networth or P75,000
(b) Corporations	
(1) With subscribed capital above P50 million	Higher of 5% of total networth or P1,000,000
(2) With subscribed capital above P20 million but not more than P50 million	Higher of 5% of total networth or P500,000
(3) With subscribed capital of P5 million but not more than P20 million	Higher of 5% of total networth or P250,000
(4) With subscribed capital of below P5 million	Higher of 5% of total networth or P100,000
(c) Other juridical entities that have become taxable as of 31 December 2017	Higher of 5% of total networth or P75,000

- Early availers are entitled to the corresponding reduction in the total amnesty tax due, as follows:

Amnesty Period	Reduction Rate
On or before the end of the 3 rd calendar month from the effective date of the IRR	20%
Within 4 th to 6 th calendar month from the effective date of the IRR	15%
Within 7 th to 9 th calendar month from the effective date of the IRR	10%

Tax Amnesty on Delinquencies

- A tax amnesty on delinquent accounts is also available which, similar to the general tax amnesty, will cover all national internal revenue taxes, including VAT and excise taxes collected by the BOC, for taxable year 2017 and prior years. The tax amnesty rates on delinquencies are as follows:

Nature of Delinquency	Rate
Delinquencies and assessments which have become final and executory	40% of basic tax assessed
Tax cases subject of final and executory judgment by the courts	50% of basic tax assessed
Pending criminal cases with criminal information filed in court for tax evasion and other criminal offenses under the applicable provisions of the Tax Code with assessments duly issued and otherwise excluded in the estate tax and general tax amnesties	60% of basic tax assessed
Withholding agents who withheld taxes but failed to remit the same to the BIR	100% of basic tax assessed

3. Who are eligible to the Philippine Tax Amnesty?

- Any natural and juridical entity who has unpaid or delinquent taxes for taxable year 2017 and prior years.
- To avail, taxpayers must file their respective Tax Amnesty Returns within the period prescribed in the Act.
- Those who wish to be granted by a General Tax Amnesty should accompany their returns with notarized STA or SALN.

4. Who are excluded in availing the Philippine Tax Amnesty?*Estate Tax Amnesty*

- The estate tax amnesty shall not extend to estate tax cases, which shall have become final and executory and to properties involved in cases pending in appropriate courts:
 1. Falling under the jurisdiction of the Presidential Commission on Good Government (PCGG);
 2. Involving unexplained or unlawfully acquired wealth under the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) and An Act Defining and Penalizing the Crime Plunder (Republic Act No. 7080);
 3. Involving violations of Anti-Money Laundering Act (Republic Act No. 9160);
 4. Involving tax evasion and other criminal offenses under Chapter II of Title X of the Tax Code; and
 5. 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.

General Tax Amnesty

- The following shall not be allowed to apply for the general tax amnesty:
 1. Withholding agents who withheld taxes but failed to remit the same to the BIR;
 2. Taxpayers with cases pending in appropriate courts involving:
 - a. Those that fall under the jurisdiction of the PCGG;
 - b. Unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) and An Act Defining and Penalizing the Crime of Plunder (Republic Act No. 7080);
 - c. Violations of the Anti-Money Laundering Law (Republic Act No. 9160);
 - d. Tax evasion and other criminal offenses under Chapter II of Title X of the Tax Code;

- e. Felonies of frauds, illegal exaction and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code.
3. Tax cases that have become final and executory; and
4. Delinquencies and assessments that have become final and executory.

5. How do taxpayers participate in the Philippine Tax Amnesty?

Estate Tax Amnesty

- A prescribed sworn Estate Tax Amnesty Return should be filed **within 2 years** from the effective date of the IRR.
- The return shall be filed with the Revenue District Office (RDO) that has jurisdiction over the last residence of the decedent.
- For nonresident decedents, the Estate Tax Amnesty Return shall be filed and corresponding amnesty tax be paid at RDO 39, or any other RDO which shall be indicated in the IRR.
- The payment of the tax should be made at the time the return is filed.

General Tax Amnesty

- A sworn General Tax Amnesty Return should be filed **within 1 year** from the effective date of the IRR to the appropriate BIR office, which has jurisdiction over the taxpayer.
- The aforementioned return shall be accompanied by a notarized STA or notarized SALN as of 31 December 2017, as applicable.
- The STA should contain a declaration of the total assets as of 31 December 2017.
- The SALN should contain a true and complete declaration of assets, liabilities, and networth of the taxpayer as of 31 December 2017.
- Payment of the amnesty tax shall be made at the time the return is filed.

Tax Amnesty on Delinquency

- A sworn Tax Amnesty on Delinquencies Return accompanied by a Certification of Delinquency shall be filed **within 1 year** from the effective date of the IRR to the appropriate office of the BIR which has jurisdiction over the residence or principal place of business of the taxpayer.
- Payment of amnesty tax shall be made at the time the return is filed.

6. What are the immunities and privileges available to persons who availed of the Philippine Tax Amnesty?

- Immunity from the payment of their respective outstanding tax liabilities as well as any increments and addition thereto, arising from the failure to pay any taxes for taxable year 2017 and prior years, and from all appurtenant civil, criminal, and administrative cases and penalties under the Tax Code and from such other investigations or suits insofar as they relate to the assets, liabilities, networth, and internal revenue taxes that are subject of the applicable tax amnesty.
- The STA or SALN, as the case may be, and appurtenant documents shall be confidential in nature and shall not be used in any investigations or prosecution before any judicial, quasi-judicial, and administrative bodies.
- Any unlawful disclosure of information by any person having knowledge of the tax amnesty return and appurtenant documents shall be penalized as provided under the Act.

7. Why should taxpayers consider opting for tax amnesty?

- The tax amnesty is helpful to those taxpayers who admittedly have huge tax exposures or to those who want to avoid being assessed by the BIR for 2017 and prior years.
- The estate of the decedents, passed down from generation to generation, and idle assets may apply for amnesty to cover any unpaid estate taxes without imposition of penalties.
- The general tax amnesty provides flexibility for taxpayers to choose whichever is most beneficial to them – amnesty rate based on total assets or networth.

- As to tax amnesty on delinquencies, immense reduction on the delinquent amounts and freedom from prosecutions would encourage taxpayers to avail themselves of the amnesty. The taxpayers will also save on other costs relative to litigation.

The information contained in this document has been prepared by an external consultant and is for general guidance only. The information may not be complete nor suited to your specific circumstances and therefore should not be relied upon. Given the complexity of the Tax Amnesty Act as well as the various conditions and implications thereof, we highly recommend that taxpayers engage the assistance of an independent legal or tax counsel.