In brief

On 14 February 2019, the President signed into law Republic Act No. 11213 or the Tax Amnesty Act. The law grants the following:

1. **Estate Tax Amnesty (ETA)**
   - The ETA shall cover the estate of decedents who died on or before 31 December 2017, with or without assessments duly issued.
   - Any person, except those that are expressly excluded, may avail of the ETA by paying estate amnesty tax at the rate of 6% of the decedent’s total net estate at the time of death, or 6% of the decedent’s undeclared estate if an estate tax return was previously filed with the Bureau of Internal Revenue (BIR). A minimum estate amnesty tax of ₱5,000 shall be paid if the allowable deductions applicable at the time of death exceed the value of the gross estate.
   - The return shall be filed within two years from the effectivity of the implementing rules and regulations (IRR) in the appropriate office of the BIR which has jurisdiction over the taxpayer.
   - Certain immunities and privileges are available to those who availed of the ETA and have fully complied with the conditions thereof.
2. **Tax Amnesty on Delinquencies (TAD)**

- The TAD shall cover all national internal revenue taxes for taxable year 2017 and prior years, which include, but are not limited to: (1) income tax; (2) withholding tax; (3) capital gains tax; (4) donor’s tax; (5) value-added tax (VAT); (6) other percentages taxes; (7) excise tax and documentary stamp taxes collected by the BIR; and (8) value-added tax and excise tax collected by the Bureau of Customs (BOC).

- The TAD may be availed of in the following instances and by paying the corresponding amnesty tax:

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- The return shall be filed within one year from the effectivity of the IRR in the appropriate office of the BIR which has jurisdiction over the taxpayer.

- Certain immunities and privileges are available to taxpayers who availed of the TAD and have fully complied with the conditions thereof.
Moreover, among the provisions of the Tax Amnesty Act, the President has vetoed certain items, to wit:

A. **Grant of a General Tax Amnesty**

- **Section 2, item (b)**
  
  “Broaden the tax base by offering a general tax amnesty for all unpaid internal revenue taxes that will help cleanse, organize, and improve the Bureau of Internal Revenue’s database.”

- **Section 3, item (d) and (e)** –
  
  This contains the definition of the “Statement of Assets, Liabilities, and Networth” and “Total Asset”.

- **Title III – General Tax Amnesty (GTA)**
  
  - The GTA shall cover all national internal revenue taxes that have remained unpaid, with or without tax assessments, for taxable year 2017 and prior years, which include, but are not limited to: (1) income tax; (2) withholding tax; (3) capital gains tax; (4) donor’s tax; (5) VAT; (6) other percentages taxes; (7) excise tax and documentary stamp taxes collected by the BIR; and (8) VAT and excise tax collected by the BOC;
  
  - Any person, except those that are expressly excluded, may avail of the GTA by paying, either (1) 2% of the total assets as of 31 December 2017, or (2) 5% based on the total networth as of 31 December 2017 subject to certain minimum amnesty tax payments. Discounts on the total tax amnesty due are granted to taxpayers availing of the GTA within following prescribed periods:
    - 20% - if paid on or before the end of the 3rd calendar month from the effectivity of the IRR
    - 15% - if paid on or after the end of the 3rd until the end of the 6th calendar month from the effectivity of the IRR
    - 10% - if paid on or after the end of the 6th until the 9th calendar month from the effectivity of the IRR
  
  - The return shall be filed within 1 year from the effectivity of the IRR in the appropriate office of the BIR which has jurisdiction over the taxpayer.
  
  - Certain immunities and privileges are available to taxpayers who availed of the GTA and have fully complied with the conditions thereof.
B. **Section 6 - one-time declaration and settlement of estate taxes on properties subject of multiple unsettled estates**

"Provided, further, that 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 based on the total net estate at the time of death of the last decedent covering all accrued taxes under the National Internal Revenue Code of 1997, as amended, arising from the transfer of such estate from all prior decedents or donors through which the property or properties comprising the estate shall pass."

C. **Section 7 - conclusive 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."

R.A. No. 11213 shall take effect fifteen (15) days following its complete publication in the official gazette or in at least one newspaper of general circulation. The law was published in the official gazette on 18 February 2019.
Coverage of the Tax Amnesty Act

TAD

All national internal revenue taxes for taxable year 2017 and prior years, which include, but are not limited to, the following:

1. Income tax;
2. Withholding tax;
3. Capital gains tax;
4. Donor’s tax;
5. VAT;
6. Other percentages taxes;
7. Excise tax and documentary stamp taxes collected by the BIR; and
8. VAT and excise tax collected by the BOC.

The TAD may be availed of in the following instances:

1. 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, on or before the effectivity of the IRR;
2. Pending criminal cases with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X, and Section 275 of the Tax Code, with or without assessments duly issued;
3. Tax cases subject of final and executory judgment by the courts on or before the effectivity of the IRR; and
4. Withholding tax agents who withheld taxes but failed to remit the same to the BIR.

Any person, natural or juridical, may avail of the TAD.
Coverage of the Tax Amnesty Act

ETA

Estate of decedents who died on or before 31 December 2017, with or without assessments duly issued, whose estate taxes have remained unpaid or have accrued as of 31 December 2017.

Exclusions to the coverage

The ETA shall not extend to estate tax cases which have become final and executory and to properties involved in cases pending in appropriate courts:

• Falling under the jurisdiction of the Presidential Commission on Good Government
• Involving unexplained or unlawfully acquired wealth under the Anti-Graft and Corrupt Practices Act and the Act Defining and Penalizing the Crime of Plunder
• Involving violations of the Anti-Money Laundering Act, as amended
• Involving tax evasion and other criminal offenses under Chapter II of Title X of the Tax Code, as amended
• Involving felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of the Revised Penal Code
Availment process
Tax Amnesty on Delinquencies

Step 1
Prepare and file a sworn TAD return accompanied by a Certificate of Delinquency.

**Deadline:** Within 1 year from the effectivity of the IRR

**Venue:** Appropriate office of the BIR which has jurisdiction over the residence or principal place of business of the taxpayer

Step 2
Secure an Acceptance Payment Form from the Revenue District Officer (RDO).

The RDO shall issue and endorse an **Acceptance Payment Form** authorizing the authorized agent bank (AAB) or in the absence thereof, the collection agent or municipal treasurer concerned, to accept the amnesty tax payment.

The availment of the TAD and the issuance of the Acceptance Payment Form do not imply admission of criminal, civil or administrative liability on the part of the taxpayer.
### Step 3
Pay the amnesty tax based on the prescribed rates.

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**When:** The payment of amnesty tax shall be made at the time the return is filed.

**Where:** AAB or in the absence thereof, the collection agent or municipal treasurer concerned

**Basic tax assessed:** latest amount of tax assessment issued by the BIR exclusive of interest, penalties, and surcharge

### Step 4
Submit the Acceptance Payment Form and sworn TAD Return to the BIR.

The BIR shall issue an **Authority to Cancel Assessment** in favor of the availing taxpayer within 15 calendar days from submission of the Acceptance Payment Form and sworn TAD Return to the BIR.

Otherwise, the **duplicate copies, stamped as received**, of the Acceptance Payment Form and TAD Return shall be deemed **as sufficient proof of availment**.
Availment process

Estate Tax Amnesty

Step 1

Prepare the sworn ETA Return

Net estate refers to the gross estate less all allowable deductions as provided in the Tax Code, 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, if any.

The provisions of the Tax Code, or the applicable estate tax laws at the time of death of the decedent on valuation, manner of computation, and other matters shall supply suppletorily, at the time of entitlement.

Step 2

File the sworn ETA Return

Deadline: Within two years from the effectivity of the IRR

Venue:
- 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

Attachment
- Proof of settlement of the estate – to verify the mode of transfer and the proper recipients

Who may file the sworn ETA Return? The executor or administrator of the estate, or if there is no executor or administrator appointed, the legal heirs, transferees or beneficiaries.
Step 3
Secure an Acceptance Payment Form from the RDO.

The RDO shall issue and endorse an Acceptance Payment Form authorizing the AAB or in the absence thereof, the collection agent or municipal treasurer concerned, to accept the amnesty tax payment.

Step 4
Pay the amnesty estate tax.

6% of the decedent's total net estate at the
time of death

If an estate tax return 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 PHP5,000 shall be paid.

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

Where: AAB or in the absence thereof, the revenue collection agent or municipal treasurer concerned

Step 5
Submit the Acceptance Payment Form and sworn ETA Return to the RDO.

The BIR shall issue a Certificate of Availment of the Estate Tax Amnesty within 15 calendar days from submission of the Acceptance Payment Form and ETA Return to the BIR.

Otherwise, the duplicate copies, stamped as received, of the Acceptance Payment Form and ETA Return shall be deemed as sufficient proof of availment.

The availment of the ETA and the issuance of the Acceptance Payment Form do not imply admission of criminal, civil or administrative liability on the part of the taxpayer.

February 2019
Tax Amnesty Act
Immunities and Privileges

**Tax Amnesty on Delinquencies**

1. Settlement of the tax delinquency

2. Termination of the pending criminal cases with criminal information filed with the Department of Justice or the courts for tax evasion and other criminal offenses under Chapter II of Title X, and Section 275 of the Tax Code, with assessments duly issued, and the corresponding civil or administrative case, if applicable

3. Immunity from all suits or actions, including payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases and penalties under the Tax Code insofar as it relates to the subject assets, liabilities, networth, and internal revenue taxes

4. Immunity from such other investigations or suits insofar as they relate to the assets, liabilities, networth, and internal revenue taxes covered by the tax amnesty

5. Any notices of levy, attachments and/or warrants of garnishment issued against the taxpayer shall be set aside pursuant to a lifting of notice of levy/garnishment duly issued by the BIR or its authorized representative

6. The TAD granted shall become final and executory upon full compliance of all the conditions for the TAD.

**Estate Tax Amnesty**

1. Immunity from payment of estate taxes and increments and additions thereto arising from all estate taxes for taxable year 2017 and prior years.

2. Immunity from all appurtenant civil, criminal, and administrative cases and penalties under the Tax Code.

3. The BIR, in coordination with the applicable regulatory agencies, 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, when applicable.

4. The ETA granted shall become final and executory upon full compliance of all the conditions for the ETA.
Other provisions

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, and appurtenant documents shall be confidential in nature and shall not be used in any investigation or prosecution before the any judicial, quasi-judicial, and administrative bodies.

Disposition of Proceeds from the Tax Amnesty

- An amount equivalent to ₱500m of the collection from tax amnesty shall accrue to the Department of Finance (DOF) and shall be exclusively used for purposes of establishing tax database (Information Management System).
- Any excess shall be allocated to augment the appropriation needs for the social mitigating measures and the BUILD BUILD BUILD infrastructure projects under Section 82 of the Tax Reform for Acceleration and Inclusion Law.

Information Management System (IMS)

- The DOF, in coordination with the BIR and other relevant agencies, shall institute an Information Management Program for the effective use of the information declared or obtained from the Tax Amnesty Returns and for the enhancement of revenue administration, revenue collection and policy formulation.
Offenses and Penalties

• The minimum and maximum fines imposed on any officer or employee of the BIR who divulges or makes known in any other manner to any person other than the requesting foreign tax authority information obtained from banks and financial institutions pursuant to Section 6(F) of the Tax Code, knowledge or information acquired by him in the discharge of his official duties are increased from ₱50,000 to ₱500,000, and from ₱100,000 to ₱1m respectively.

• Any person having knowledge of the Tax Amnesty Return and appurtenant documents who discloses any information relative thereto, and any violation of the Tax Amnesty Law shall be penalized with a fine of ₱150,000 and imprisonment of not less than six years but not more than ten years.

Implementing Rules and Regulations

• The Secretary of Finance shall, in coordination with the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations of this Act within ninety (90) days from its effectivity.

Congressional Oversight Committee

• The BIR Commissioner shall submit to the Oversight Committee referred under Section 290 of the Tax Code, through the Chairpersons of the Committee on Ways and Means of the Senate of the Philippines and House of Representatives, a detailed report on the implementation of the Tax Amnesty Act within 6 months after the 2-year period of availment of the ETA and 1-year period of availment of the TAD.
Let’s talk
To help you understand and appreciate the Tax Amnesty law provisions, please contact:

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Tax Amnesty Act
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February 2019
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Thank you