

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

August 23, 2012

REVENUE MEMORANDUM ORDER NO. 20-2012

Subject: 2012 Value-Added Tax Audit Program

To : All Concerned Regional Directors, Revenue District Officers,
Chiefs of the Assessment Divisions, Heads of Revenue Data
Centers and All Internal Revenue Officers Concerned

I. Objectives

1. To increase collection and enhance voluntary compliance by focusing on quality audit of Value-Added Tax (VAT) returns;
2. To broaden the tax base by identifying buyers and sellers/suppliers of goods and services subject to VAT; and
3. To provide an audit trail for transactions of VAT taxpayers.

II. Coverage

- A. This Order shall cover the audit/investigation of VAT taxpayers under Revenue Region Nos. 5–Caloocan, 6–Manila [excluding taxpayers under Revenue District Office (RDO) Nos. 35–Romblon, Romblon, 36–Puerto Princesa City, Palawan and 37–San Jose, Occidental Mindoro], 7–Quezon City and 8–Makati City for the 1st and 2nd quarters of 2012 VAT Returns and every quarter thereafter.

III. A. Selection Criteria

1. Taxpayers whose VAT compliance is below the established 2010 or 2011 industry benchmarks, whichever is available (Selection code: BEN);
2. Taxpayers whose VAT returns for the succeeding quarters show a substantial decrease in tax payment (Selection code: QDTP);
3. Taxpayers whose VAT returns reflect substantial input taxes from importations and local purchases, such as when the total purchases claimed exceed 75% of the total sales (Selection code: VILP);
4. Taxpayers with no VAT return filed in any quarter or all of the quarters in 2011 (Selection code: NVR);
5. Taxpayers who are reporting/filing “No Operations” Returns (Selection code: NOP);

[Prior to the selection of the taxpayer, an ocular inspection shall be conducted to verify whether the business exists and to determine if the volume of business transactions warrants the issuance of an electronic Letter of Authority (eLA)]

6. Taxpayers with a history of declaring excess input tax carry over for all the quarters of 2011 (Selection code: VTE);
7. Taxpayers who have not submitted their Summary List of Sales (SLS) or Purchases (SLP) for any of the quarters of 2011 (Selection code: LSP);
8. Taxpayers with substantial sales but showing net loss (Selection code: LOS);
9. Taxpayers identified to have significant under-declaration of sales as a result of the Tax Compliance Verification Drive and/or other programs of the Bureau (Selection code: TCVD);
10. Taxpayers filing exempt VAT returns due to availment of tax incentives or tax exemptions (Selection code: INC); and
11. Such other taxpayers selected by the head of the VAT Audit Team subject to approval by the Regional Director (Selection code: RDD)

B. Exceptions

The following VAT returns shall be excluded from the coverage of this Order:

1. Tax credit/refund claims; and
2. VAT returns selected for audit by the National Investigation Division under the Enforcement Service and by the Special Investigation Division of the Revenue Regional Offices.

IV. Audit Policies and Procedures

A. In General

1. Initially, the VAT Audit Program shall be implemented with pilot roll-out in September 2012 in Revenue Region (RR) Nos. 5-Caloocan, 6-Manila (except RDO Nos. 35-Romblon, Romblon, 36-Puerto Princesa City, Palawan and 37-San Jose, Occidental Mindoro), 7-Quezon City and 8-Makati. Subsequently, this program shall be rolled out to other Regional Offices upon notification.

VAT Audit Team shall be created in the pilot regions. Each region shall have one (1) VAT Audit Team with at least twenty five (25) Revenue Officers (ROs)-Assessment, including Group Supervisors, to be headed by the Chief of the Assessment Division (AD).

2. ROs from the RDOs who will be assigned to the VAT Audit Team in the AD and who still have pending cases shall finish and report their cases covering 2009 and prior years on or before August 15, 2012 and shall turn over to the Revenue District Officer dockets covering 2010 and onward on or before August 31, 2012 for re-assignment to other ROs within the district.

ROs from the AD who will be assigned to the VAT Audit Team in the AD and who still have pending dockets for review shall finish and report them on or before August 31, 2012. Thereafter, they shall not be assigned anymore with cases for review.

3. Only ROs–Assessment who are part of the VAT Audit Team of their respective region shall be authorized to conduct audit and investigation of VAT returns covered by this Order, whether in principal or assisting capacity.
4. The VAT Audit Team shall be given the responsibility of investigating VAT returns, subject to the exceptions in Item III.B hereof. It shall not undertake, nor be given, any other investigative work beyond what is prescribed under this Order.
5. The VAT Audit Head shall draw a list (Annex “A”) of tax returns/taxpayers to be audited for the first two quarters of 2012 who have been selected for audit based on the selection criteria specified herein and submit to the Regional Director (RD) for approval.
6. The Electronic Letter of Authority Monitoring System (eLAMS) shall be used in the request, approval and issuance of eLAs, as well as in updating the status of the same.

A copy of the approved list shall be retrieved by the Assistant Commissioner (ACIR)–Assessment Service (AS) from the eLAMS.

7. The ACIR–AS may review and evaluate the list to determine compliance with the guidelines set in selecting the VAT taxpayers for audit and in the distribution of cases. If upon evaluation of the submitted list, it is found out that a violation has been committed, the ACIR-AS thru the Deputy Commissioner–Operations Group (DCIR-OG), may recommend to the Commissioner the cancellation of the eLA and the institution of administrative proceedings against the erring official and employee.
8. One (1) eLA shall be issued for each taxable quarter or for two (2) quarters by the RD upon recommendation of the VAT Audit Head.
9. The initial workload of each RO under this program shall be twenty (20) cases. In no case shall the number of cases handled by an RO exceed twenty (20) cases, subject to replenishment every after submission of the report of investigation/closure of each case.

The concerned VAT Audit Head shall see to it that the cases are equally and fairly distributed among the ROs under his jurisdiction. Each eLA is counted as one case of the RO assigned to the case except for eLA assigned to a group of ROs, which shall be counted to the lead RO only.

10. The basic audit procedures prescribed in Revenue Audit Memorandum Order (RAMO) No. 1-99 shall be strictly observed by all ROs concerned, including all revenue issuances that have an impact on VAT audit, particularly those that deal on big ticket items of purchases. Moreover, ROs should thoroughly understand the business operation through observation, interview, etc. as required in the RAMO. Hence, ROs should include in the memorandum a discussion on the business operation of the taxpayer.
11. If the taxpayer has been previously selected in the RDO for regular audit of all internal revenue tax liabilities in 2011 or any prior year, significant findings on the audit of VAT should be communicated to the Chief-AD for possible risk identification in the current quarters.

If an eLA has been issued under the VAT audit program and subsequently, the taxpayer becomes a candidate for regular audit in the RDO based on the selection criteria under the annual audit program, the request for eLA for regular audit should not include the VAT liability.

The head of the VAT Audit Team should transmit a copy of the VAT audit findings to the RDO conducting the regular audit to determine their relevance and effect to other tax liabilities.

12. For taxpayers who have not yet submitted their Summary Lists of Sales and Purchases pursuant to Revenue Regulations (RR) No. 1-2012, the concerned RDO shall require their taxpayers to submit the diskettes or hard copies containing the information on their suppliers and buyers for the first and 2nd quarter of 2012.
13. Whenever feasible, the VAT Audit Head shall require the RO to sample and cross check the details of sales/output tax and purchases/input tax against the books and records of the buyer and seller/supplier, as the case may be. The authorization to access such Third Party Information shall be signed by the VAT Audit Head. All requests for access to Third Party Information and the results thereof shall form part of the official report of investigation.
14. Based on the audit findings or violations uncovered during the audit, the VAT Audit Head may recommend surveillance, closure or other enforcement activity on the taxpayer.
15. Cases covering one (1) quarter and two (2) quarters shall be reported within sixty (60) days and ninety (90) days, respectively, from date of issuance.

If the time frame cannot be met, the RO should make a progress report stating the reason for each. The progress report, in memorandum form, should be noted by the VAT Audit Head and submitted to the RD prior to the lapse of the 60 or 90-day period, as the case may be.

16. The use of BIR Form 0500 in reporting the audit/investigation and the mandatory reporting requirements to be prepared by an RO that will comprise a complete tax docket prescribed in Annex "B" of Revenue Memorandum Order (RMO) No. 53-98, as amended by RMO Nos. 16-2007, 22-2007 and Revenue Memorandum Circular (RMC) No. 29-2009, in relation to the big ticket items, shall be strictly observed by all ROs concerned.
17. In case there are deficiency VAT liabilities as a result of the audit, the issuance of Preliminary Assessment Notice (PAN) and Final Assessment Notice (FAN) will be in accordance with existing regulations, until such time that other relevant issuances are issued later.
18. Cases returned to the RO after review for compliance with certain documentary audit requirements or for further conduct of audit to meet some procedural requirements or for correction of the report and/or PAN shall be considered as an addition to his existing workload upon receipt of the returned case or docket. In case the RO's workload exceeded the maximum allowable limit of twenty (20) cases upon his receipt of the returned cases, the excess thereon shall not be considered as a violation of this Order. Returned cases requiring compliance with certain review requirements shall be acted upon within fifteen (15) days from the receipt of the docket to ensure the conduct of quality audit and that top priority action shall be given by the concerned RO on these returned cases.
19. Cases referred to the Legal Division for issuance of Subpoena Duces Tecum (SDT), issuance of legal opinion or for filing of criminal action shall be removed from the inventory of the concerned RO for purposes of replenishment of cases. Under RMO No. 45-2010, the Legal Service, Legal Division or any other authorized office shall act on the request for the issuance of SDT within five (5) calendar days from receipt of such request.

However, once the case is returned to the RO for continuation of audit/investigation after rendering the desired resolution/opinion on certain legal issues or after compliance of the taxpayer with the Subpoena Duces Tecum (SDT), this shall be considered as part of his inventory or workload. If such returned cases result to an excess over twenty (20) cases, this situation will not be considered a violation.

20. Dockets on selected paid cases may be subjected to revalida upon instruction of the Commissioner.

B. Reporting Requirements

The VAT Audit Heads shall submit to the ACIR-AS and ACIR-Inspection Service (IS), thru the RDs, a monthly report of all cases paid and assessed (Annex "B") and a monthly status report of all cases referred to the Legal Division (Annex "C") not later than the 10th day of the following month. Also, the Chiefs

of Legal Divisions shall submit to the ACIR-AS and ACIR-IS thru the RDs, a monthly status report of all cases referred by the VAT Audit Heads (Annex “D”) not later than the 10th day of the following month. The submission of timely and accurate reports shall be the responsibility of the VAT Audit Heads, the Chiefs of Legal Divisions and the RDs.

Every 20th day of the month following the applicable quarter, the ACIR-AS shall submit to the Management Committee a quarterly summary report on the results of the 2012 VAT Audit Program (Annex “E”) with appropriate recommendations based on the analysis of the said report.

V. Violations

Any violation of this Order will be referred by the concerned revenue official to the IS for investigation, or the IAD, thru the IS, may initiate its own fact-finding revalida on the violation/infraction of ROs, Legal Officers, Group Supervisors, VAT Audit Heads, Chiefs of Legal Divisions of regional offices and RDs. In this regard, the ACIR-IS, through the DCIR-OG, may recommend to the Commissioner the relief, re-assignment, transfer or imposition of administrative sanctions on any revenue official/RO violating any provisions of this Order.

VI. Repealing Clause

All other issuances inconsistent herewith are hereby modified or repealed accordingly.

VII. Effectivity

This Order takes effect immediately.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue