

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

December 19, 2012

REVENUE MEMORANDUM CIRCULAR NO. 6-2013

SUBJECT : Clarifying Taxpayers' Concerns on the Audit Program and Their Responsibility in Engaging Tax Agents/Practitioners

TO : All Internal Revenue Officers and Others Concerned

This Circular is issued to clarify certain concerns of taxpayers regarding the audit program and their responsibility in selecting tax agents/practitioners to make representation in the Bureau of Internal Revenue (BIR) in their behalf.

BACKGROUND

Item H(7) of Revenue Administrative Order (RAO) No. 10-2000 states that:

"The Revenue District Officer shall supervise/undertake audit of tax cases within the RDO's jurisdiction, in accordance with the audit program developed and prescribed by the National Office." (italics and emphasis supplied)

This function in the RAO is one of the reasons cited by some taxpayers and practitioners in questioning the validity of an issued electronic Letter of Authority (eLA) in case of non-issuance of a Revenue Memorandum Order (RMO) providing for an annual audit program.

Further, it has been observed that there are certain tax agents/practitioners who write in behalf of the taxpayer and/or represent the taxpayer questioning the validity of the eLA issued and/or certain procedures related to audit such as issuance of Subpoena Duces Tecum and assessment notices. However, it has been found out that many of these tax agents/practitioners are not accredited by the BIR as required under Revenue Regulations (RR) No. 11-2006, as amended by RR Nos. 4-2010 and 14-2010.

CLARIFICATION

A. On the Audit Program

In the absence of an annual audit program, the Commissioner has the authority to make assessments pursuant to Section 6(A) of the Tax Code, as amended, to wit:

SEC. 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –

(A) *Examination of Returns and Determination of Tax Due. - After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: Provided, however; That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.*

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B. On Tax Agents/Practitioners

Tax agents/practitioners who are engaged in the regular preparation, certification, audit and filing of tax returns, information returns or other statements or reports required by the Code or Regulations; those who are engaged in the regular preparation of requests for ruling, petitions for reinvestigation, protests, requests for refund or tax credit certificates, compromise settlement and/or abatement of tax liabilities and other official papers and correspondence with the BIR, and other similar or related activities; or those who regularly appear in meetings, conferences, and hearings before any office of the BIR officially on behalf of a taxpayer or client in all matters relating to a client's rights, privileges, or liabilities under laws or regulations administered by the BIR, shall be deemed to be engaged in tax practice and are required to apply for accreditation pursuant to Section 2(e) of RR No. 11-2006, as amended.

Hence, the BIR, in accordance with the above RR, can refuse to transact official business with tax agents/practitioners who are not accredited before it. Therefore, all taxpayers are enjoined to ensure that the tax agents/practitioners whom they will engage are accredited with the BIR. Further, taxpayers should be aware of their responsibilities which are as follows:

1. Before engaging the service of a tax agent/practitioner, they should secure a copy of his/its BIR certificate of accreditation and take note of the following:
 - a. Taxpayer Identification Number (TIN);
 - b. Accreditation number;
 - c. Date of issuance; and
 - d. Date of expiry
2. Constantly visit the BIR website for the publication of the updated master list of the accredited tax agents/practitioners.

All concerned revenue officials and employees are hereby enjoined to give this Circular as wide a publicity as possible.

This Circular takes effect immediately.

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