

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

July 29, 2002

REVENUE MEMORANDUM ORDER NO. 20-2002

Subject : Amending Pertinent Provisions of Revenue Memorandum Order No. 57-2000 Relative to the Confrontational Requirements, Execution and Enforcement of Closure Orders as well as the Duration and the Lifting Thereof.

To : All Internal Revenue Officers and Others Concerned.

I. Objective. - This Order is being issued in order to amend certain provisions of Revenue Memorandum Order No.57-2000 (RMO 57-2000) relative to the confrontational requirements, the manner of execution and enforcement of closure orders, as well as identify the designated Officials authorized to sign closure orders and the lifting thereof .

II. Amendatory Provisions. –

A. Pertinent portions of Section II of RMO 57-2000 are hereby amended to read as follows:

(1) Section II(2) . -

“(2) Revenue Officers Authorized to Conduct Surveillance Activities on Business Establishments for Possible Violations of Sections 113, 114, 236, 237 and 238 of the Tax Code of 1997. - XXXX

XXX XXX

Xxx	Xxx
Xxx	Xxx

In order to avoid multiple surveillance activities being conducted upon one taxpayer by several Offices of the Bureau and to clearly define which Office shall conduct surveillance activities, the following rules shall be observed:

“(a) If the basis of the surveillance activities comes from information gathered from the internal sources of the Bureau, e.g.,

information in the tax returns, information required to be furnished by certain government agencies as well as taxpayers to the Bureau on a regular basis (e.g., BOC, LRA, BIR RELIEF System, etc.) pursuant to Memoranda of Agreement executed with the Bureau and revenue regulations issued, the surveillance activities shall be conducted by the Revenue District Office (RDO), Large Taxpayers Audit and Investigation Division I (LTAID I), Large Taxpayers Audit and Investigation Division II (LTAID II), or Large Taxpayers District Office (LTDO) with respect to taxpayers falling under their respective jurisdictions; and

"(b) If the basis of surveillance activities comes from a confidential information filed by an informer or from other external sources, the surveillance activities shall be conducted by the Tax Fraud Division (TFD). The DCIR-Legal and Inspection Group, however, in consultation with the DCIR-Operations Group, may decide to refer the case to the Special Investigation Division (SID) or RDO/LTDO.

"The conduct of surveillance and performance of surveillance activities shall conform strictly with the policies and procedures laid down by RMO 54-2000."

(2) Section II(4)(B). -

"(B) Confrontational Requirements. -

" 1. Consistent with the requirements of due process, the report of the handling Revenue Officer shall be concurred in by the Head of the investigating office. The findings of the investigating office shall be reviewed by a Review Board composed of the following :

(a) For Regional Cases. -

- (1) Regional Director – Chairperson;**
- (2) Chief, Assessment Division - Member; and**
- (3) Chief, Legal Division – Member**

(b) For National Office Cases. –

- (1) ACIR-Large Taxpayer Service (ACIR-LTS)/ ACIR- Enforcement Service (whoever is the appropriate Assistant Commissioner)-Chairperson;**
- (2) Representative of the ACIR- Legal Service – Member;**
- (3) Designated Executive Assistant-ODCIR Operations Group – Member ; and**

(4) Designated Executive Assistant-ODCIR, Legal and Inspection Group- Member.

The Review Board must act on the report within seven (7) days from receipt thereof. The chairperson of the Board may always seek the assistance of any Revenue Official and Employee, in the interest of public service. The reviewing board shall convene, upon the initiative of the chairperson, whenever necessary. If the report is approved by the Review Board, the concerned Regional Director or the ACIR, Enforcement Service/LTS, as the case may be, as chair, shall immediately require, through the Chief, Legal Division or ACIR, Legal Service, the taxpayer to refute the apprehension and to explain under oath within forty eight (48) hours why he should not be dealt with administratively, by suspension of business or temporary closure of his establishment, and/or criminally, for violation of pertinent provisions of the Tax Code. Thus, the 48-Hour Notice shall be signed by the Chief, Legal Division or ACIR, Legal Service, as the case may be, appending thereto the report of the investigating office as approved by the Review Board.

"2. Upon submission of the explanation or if none is submitted on or before the deadline, the Review Board headed by the Regional Director or the ACIR, Enforcement Service/LTS, shall decide whether or not to terminate or indorse the docket of the case to the ACIR, Legal Service, with specific recommendation on whether or not to pursue administrative or criminal action against the taxpayer.

"3. Upon evaluation of the evidence presented and arguments of the parties involved, the ACIR-Legal Service shall make the necessary recommendation for the approval of the DCIR-Legal and Inspection Group unless the CIR delegates the approval thereof to another subordinate official. If the recommendation is for the issuance of the 10-Day VAT Compliance Notice (Annex "A"), the same shall be prepared by the ACIR-Legal Service for the signature of the DCIR-Legal and Inspection Group (unless the CIR delegates the signing thereof to another subordinate official)." The 10-day VAT Compliance Notice with details of the findings of the investigating office as approved by the Review Board shall be served immediately to the taxpayer by the Regional Director/ACIR-LTS/ACIR-Enforcement Service, whoever is the appropriate official who has jurisdiction over the case. The taxpayer may again refute the allegations and findings of the BIR within five (5) days from receipt of the notice. The BIR originating office shall respond to the letter or protest of the taxpayer within five (5) days from receipt thereof. The response letter shall be signed by the Head of the Review Board. Upon receipt by the BIR of the protest, the running of the 10-Day compliance period is deemed suspended

and shall begin to run only upon receipt by the taxpayer of the resolution on the protest.

B. Section II.4(C) of RMO 57-2000 is hereby amended to read as follows:

"(C) Execution and Enforcement. -

"1. Where a taxpayer refuses, neglects, or fails to comply with the terms of the 10-day VAT Compliance Notice or to satisfactorily refute the findings of the BIR, the Review Board chaired by the Regional Director/ ACIR-Enforcement Service/ ACIR-LTS, shall prepare a report recommending the closure of the establishment for the approval of the DCIR- Legal and Inspection Group. On the basis of the approval made by the DCIR- Legal and Inspection Group, the Regional Director/ ACIR - Enforcement Service / ACIR-LTS shall prepare, sign, and execute the Closure Order (Annex "B"). The service of the Closure Order shall be accompanied with the report of the Review Board as approved by the DCIR-Legal and Inspection Group indicating therein the computed tentative amount of underdeclaration of gross sales/receipts/other taxable base as a result of the violations committed.

"However, if in the meantime the taxpayer corrects the violation pursuant to Section IV hereof, the Regional Director or the ACIR, Enforcement Service/Large Taxpayer Service who signed the closure order shall desist from implementing the closure order and shall communicate such information to the Deputy Commissioner – Legal and Inspection Group who approved the recommendation of the Review Board for the issuance of the closure order.

"2. The execution of the closure order shall consist in the physical closing of the doors or other means of ingress unto the establishment and the sealing thereof with the BIR official seal.

"3. XXX XXX XXX"

C. Section III of RMO 57-2000 is hereby amended to read as follows:

"III. Duration of Closure. – The closure shall not be for less than five (5) days and shall continue until the violation is rectified. Upon rectification by the taxpayer of the violation pursuant to Section IV hereof, the Review Board chaired by the Regional Director/ACIR-Enforcement Service/ ACIR-LTS, shall prepare a report stating the subsequent compliance made by the taxpayer thereby recommending the lifting of the closure order for approval by the DCIR-Legal and Inspection Group. On the basis of the approval made by the DCIR-Legal and Inspection Group, a written order for lifting of the closure order shall be prepared by the Review Board to be signed by the Regional Director/ ACIR-Enforcement Service/ACIR-LTS. The written order (Annex "C") of lifting of closure order must be served immediately, together with the report recommending

therefor as approved by the DCIR-Legal and Inspection Group, to the taxpayer without prejudice to the conduct of audit on the taxpayer's records and tax liabilities, if warranted."

D. A new provision is hereby introduced as Section IV of RMO 57-2000 to read as follows:

"IV. Compliance by Taxpayer. - The closure order shall only be lifted if the violation/s as stated in the 10-Day VAT Compliance Notice is rectified by the taxpayer by :

"(1) Complying with the registration requirements set forth in Sections 113, 236, 237, and 238 of the National Internal Revenue Code of 1997 in case of failure to register;

"(2) Filing of VAT returns which have not been filed and paying the amount of taxes due thereon;

"(3) Amending previously filed VAT returns to reflect the correct taxable sales/receipts which were previously understated due to the failure to issue sales invoices/receipts or due to underdeclaration of sales/receipts.

"Nonetheless, taxpayer is not precluded from amending/filing returns covering other tax liabilities as a result of the BIR findings as aforestated.

"The original returns/amended returns and payment of the taxes due inclusive of penalties, shall be filed with the AABs of the BIR Office (i.e., RDO or LTDO or LTAID I or LTAID II, whichever is applicable) where the taxpayer is registered or required to be registered. The registration of the business as well as other registration-related activities shall be made with the appropriate BIR Office where the taxpayer is required to be registered.

"On the basis of the compliance made, the concerned BIR Office shall issue a Certification to the effect that the particular violation has been rectified by the taxpayer. Such Certification shall reflect the amount of taxes paid together with the Official Receipt Number issued by the AAB/Collection Agent and the particular returns filed or amended by the taxpayer, in case of any, or the Certificate of Registration Number/Taxpayer Identification Number (TIN) issued to the taxpayer, in case of failure to register.

"A copy of such Certification together with the copies of the Certificate of Registration, AAB/Collection Agent Official Receipt and/or VAT returns filed, or other documents to prove compliance shall be submitted to the Review Board as evidence of the subsequent compliance made which shall be the basis for the recommendation of the lifting of the closure order as provided in Section III hereof.

"If the amounts declared in the VAT returns filed do not tally with the computed tentative amount of underdeclaration of gross sales/receipts/other taxable base as indicated in the report of the Review Board, the taxpayer must be able to dispute the accuracy of the computed figures reported by the revenue officers and must be able to cite the reasons why the tentative figures as computed by the BIR were not the figures followed in the filed returns. The report of the investigating office as reviewed by the Review Board shall recommend the appropriate action thereon for the approval of the DCIR-Legal and Inspection Group"

E. Section IV of RMO 57-2000 is accordingly renumbered as Section V and is hereby amended to read as follows:

"V. Effect of Lifting of Closure Order. - Xxx xxx xxx
" (1) XXX XXX XXX
" (2) XXX XXX XXX
" (3) XXX XXX XXX
" (4) XXX XXX XXX

"If there is no 100% compliance with the tentative figures but the taxpayer partially complies by amending returns which amended figures are based on the ratio and percentages reflected in the original returns filed, such compliance shall still be recommended for the issuance of the written order of lifting of the closure order, provided that the tax payments in the amended returns filed or on returns initially filed, in case of no previously filed returns, for business tax shall not be less than the following :

- (a) In case of seller of service, three percent (3%) of gross receipts based on the tentative gross receipts as found by the BIR; or
- (b) In case of seller of goods, one percent (1%) of gross sales except for sellers engaged in the grocery and/or pharmaceutical business stores where the minimum amount of tax payment shall be not less than ½ of 1% of gross sales, based on the tentative gross sales as found by the BIR.

Provided, further, that notwithstanding compliance with the 10-Day VAT Notice and the subsequent lifting of the closure order, the taxpayer may still be subjected to audit of returns filed (original or amended returns) and records pertaining to all his tax liabilities.

"The lifting order shall not release the taxpayer from the compliance requirements and from the penalties prescribed by the Tax Code for the violation which shall be dealt with by criminal prosecution or by compromise settlement, at the discretion of the Commissioner of Internal Revenue or the DCIR-Legal and Inspection Group. In case of compromise settlement,

however, the same shall be approved by MANCOM. Majority vote of the members of the MANCOM shall constitute a decision of MANCOM."

F. A new provision is hereby introduced as Section VI of RMO 57-2000 to be read as follows:

"VI. Concurrence of the DCIR-Operations Group Required. - All decisions/ actions of the DCIR-Legal and Inspection Group should be with the concurrence of the DCIR, Operations Group. For this purpose, all reports that require the approval and signature of the DCIR, Legal and Inspection Group should bear the "CONFORME" of the DCIR, Operations Group."

G. Section V of the RMO 57-2000 is hereby renumbered as Section VII and is amended to read as follows:

"VII. Reportorial Requirements. - Regional Directors and ACIRs of the Enforcement Service and the LTS shall, within ten (10) days of each succeeding month, submit to the Deputy Commissioner- Legal and Inspection Group a monthly status report of all VAT Compliance Notices/ Suspension/Closure Orders issued and/or executed and the list of lifting of closure orders within their jurisdiction, copy furnished the Deputy Commissioner – Operations Group."

III. Transitory Provision. - For closure cases initiated prior to the issuance of this Order but whose disposition have remained pending as of its effectivity, the pertinent provisions herein shall apply to the remaining stages. Thus, in a closure case where the action left to be done prior to the effectivity of this Order is the lifting thereof, the provisions relative to the lifting of the closure order and other procedures to be performed thereafter as herein provided shall be observed.

IV. Effectivity Clause. - This Order shall take effect immediately.

(Original Signed)
RENÉ G. BAÑEZ
Commissioner of Internal Revenue