

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

May 2, 2013

REVENUE MEMORANDUM CIRCULAR NO. 38-2013

SUBJECT: Clarifying the Implication of Legal Petition Notices/Declarations and Similar Documents on the Audit/Assessment Process

TO : All Internal Revenue Officers and Others Concerned

BACKGROUND

It has been observed that there is a proliferation of Legal Petition Notices (LPNs)/Declarations and similar documents coming from taxpayers and practitioners questioning the validity of the electronic Letters of Authority (eLAs) issued. Even as we repeatedly reply to these LPNs reiterating the validity of the eLAs pursuant to Section 6(A) and 10(c) of the National Internal Revenue Code of 1997 (Tax Code), as amended, these taxpayers/practitioners persist on sending LPNs, thinking that LPNs, will stop or defer the investigation process. However, it is evident that they misconstrue the consequence of these LPNs and are ignoring the long established procedures for audit, assessment and protesting deficiency assessments.

Henceforth, there is a need to make taxpayers understand the implication of these LPNs in the process and/or certain procedures related to audit, such as issuance of Subpoena Duces Tecum (SDT) and assessment notices, to prevent any attempt by taxpayers and practitioners to thwart and undermine the authority of the Bureau to exercise its functions provided by law.

CLARIFICATION

I. ON THE AUDIT/INVESTIGATION PURSUANT TO ISSUED LETTERS OF AUTHORITY

The normal process and/or procedures related to audit/investigation arising from eLA issued will not be suspended notwithstanding the receipt of LPN pertaining to the case. Moreover, the National Office shall no longer entertain any LPN questioning the validity and enforceability of the eLA duly issued by the concerned Regional Director for the audit of taxpayer within the region inasmuch as the issue has already been clarified under RMC No. 6-2013. Thus, there shall be no impediment on the investigation of the

taxpayer's internal revenue tax liabilities and the eventual recommendation for an issuance of SDT, if warranted, in accordance with Revenue Memorandum Order (RMO) Nos. 45-2010 and 88-2010.

II. ON THE ISSUANCE OF PRELIMINARY ASSESSMENT NOTICE (PAN), FORMAL LETTER OF DEMAND (FLD) AND FINAL ASSESSMENT NOTICE (FAN)

Correspondingly, upon receipt of the PAN or FLD and FAN, the taxpayer is given fifteen (15) or thirty (30) days, as the case may be, to rebut the assessment upon his compliance with the requirements of filing a protest pursuant to Revenue Regulations (RR) No. 12-99. Thus, any LPN, declaration or any similar document protesting the assessment addressed to the Commissioner or any official in the National Office without the issuance of a Final Decision on Disputed Assessment (FDDA) from the regional office shall be considered premature and invalid.

III. RESPONSIBILITY OF TAXPAYERS ON THEIR LPN

As stated in Section 9 of RR No. 11-2006, as amended, and clarified in RMC No. 6-2013, the BIR can refuse to transact official business with tax agents/practitioners who are not accredited before it. Therefore, the responsibility is on taxpayers to ensure that the tax agents/practitioners whom they choose to engage are accredited with the BIR. Aside from knowing whether consultants are accredited or not, taxpayers are forewarned to be more circumspect in scrutinizing the credibility and competence of the consultants and the veracity of the contents of the LPN/Declaration or any document before affixing their signature therein since these documents will not gain merit and may lead to adverse consequences, such as the filing of the necessary charges in court.

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

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