

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

28 April 2009

REVENUE MEMORANDUM ORDER No. 12-2009

SUBJECT: Enjoining the Strict Implementation of the Penalty Provisions for the Non-Submission of Quarterly Summary Lists of Sales and Purchases

TO: All Revenue Officers and Employees of the Large Taxpayers Service, its Divisions and District Offices, Regional Directors, Revenue District Officers and Other Internal Revenue Officers Concerned

I. BACKGROUND

The Value Added Tax System, as it is being implemented in the Philippine setting, calls for the submission of Summary Lists of Sales and Purchases, wherein taxpayers declare their taxable sales and purchases for prescribed periods. Such submission is mandated under Revenue Regulations (RR) No. 8-2002 (June 13, 2002), and as incorporated in RR No. 16-2005 (October 19, 2005), as amended.

A review of the degree of taxpayer compliance with these regulations has disclosed, however, that less than thirty percent (30%) of registered VAT taxpayers who are required to submit such information have actually complied with this requirement. Further inquiry into this issue has shown that, in general, these taxpayers prefer to forego the submission of such data, and instead, simply pay the very modest compromise penalty of One thousand pesos (₱1,000.00).

These findings show that violation of RR No. 8-2002 is rapidly becoming rampant, and as such, the Bureau is effectively rendered unable to verify an increasingly large volume of taxable sales and purchases. The revenue foregone under such circumstances is virtually incalculable, and would have served to significantly reduce the Bureau's collection shortfalls in recent years. Moreover, such incidences are a troubling indication of indirect tax evasion, if not outright tax avoidance, by an increasingly larger proportion of business taxpayers.

In this regard, the Bureau must take the necessary steps to strongly exhort taxpayers to increase their voluntary compliance with this basic requirement of the tax system.

II. OBJECTIVE

This Order is being issued to:

1. Strengthen enforcement activities and operations against non-compliant taxpayers;
2. Strictly implement the penalty provisions for the non-submission of the Summary Lists of Sales and Purchases; and,
3. Increase voluntary compliance of taxpayers and enhance revenue collections.

III. POLICIES

1. Every failure by a taxpayer who, under established revenue rules and regulations, is required to submit the required Summary List of Sales and/or Summary List of Purchases in the prescribed format for a particular period, or submits erroneous / incomplete / falsified information in a particular Summary List, shall be considered as grounds for the issuance of a ***Subpoena Duces Tecum*** by the Bureau office concerned to the taxpayer, mandating the immediate submission of the said documents.
2. Upon submission of the required Summary Lists in compliance with the ***Subpoena Duces Tecum***, the concerned taxpayer shall also be required to pay a compromise penalty in the amount of *Ten thousand pesos (₱10,000)*, for each non-submission of the required Summary Lists of Sales and Purchases.
3. In the event that a taxpayer should continue to fail to submit the required Summary Lists in compliance with a duly-issued ***Subpoena Duces Tecum***, such non-submission shall be tantamount to failure to supply correct and accurate information under Section 255 of the National Internal Revenue Code. Consequently, the Revenue District Officer concerned shall initiate the necessary administrative and judicial action with the end in view of imposing the corresponding administrative and criminal penalties in accordance with the said Section, to wit:

SEC. 255. Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation. - Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, *be punished by a fine of not less than Ten thousand pesos (₱10,000)*

and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed shall, upon conviction therefor, *be punished by a fine of not less than Ten thousand pesos (P10,000) but not more than Twenty thousand pesos (P20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years.* (Italics and underscoring supplied.)

4. In the case of corporations that fail to submit their Summary Lists of Sales and Purchases, the corporate officers and employees of the corporation concerned shall be held criminally liable for such failure, in accordance with Section 256 of the Tax Code, as stated hereunder:

SEC. 256. Penal Liability of Corporations. -

Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees shall, upon conviction for each act or omission, *be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).* (Italics supplied.)

IV. REPEALING CLAUSE

All other issuances and / or portions thereof that are inconsistent herewith are hereby repealed, modified or amended accordingly.

V. EFFECTIVITY

This Order shall take effect immediately.

(Original Signed)
SIXTO S. ESQUIVIAS IV
Commissioner of Internal Revenue