

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

8 July 2009

REVENUE MEMORANDUM ORDER No. 23-2009

SUBJECT: Audit of Selected Taxpayers by the National Investigation Division (NID), for the Development of RATE Cases and In Order to Assist in the Collection of Taxes and for Other Purposes

TO: All Revenue Officials, Employees and Others Concerned

I. OBJECTIVE

The conduct of audit and enforcement activities continues to be one of the revenue service's more effective means to encourage voluntary compliance and discourage tax evasion. In this light, the ability of the Bureau of Internal Revenue to extend its audit and enforcement activities to include the investigation of corporate taxpayers, inter-related companies and conglomerates from certain industries, can serve as an incentive for these taxpayers to improve their voluntary compliance.

This Order is therefore being issued to provide for the participation of the National Investigation Division (NID) in the Bureau's efforts to develop cases for the RATE Program, and to further encourage voluntary compliance.

II. POLICIES AND GUIDELINES

In carrying out audit and investigation activities in accordance with this Order, the following policies and guidelines shall be observed.

A. Coverage

1. The NID shall have the authority, subject to the approval of the Commissioner, to conduct an investigation / reinvestigation on the following taxpayers and their respective officers:
 - Inter-related companies and conglomerates, including related individual taxpayers, from certain industries;
 - Local Government Units (LGUs);
 - National Government Agencies (NGAs); and
 - Government Owned and Controlled Corporations (GOCCs).

2. The audit of inter-related companies and conglomerates, including related individual taxpayers, shall be undertaken to ensure that such taxpayers are clearly reflecting income and expenses that are attributable to controlled and inter-related transactions. Various schemes being employed by conglomerates and groups of companies to reduce the amount of taxes due shall be identified, such as (but not limited to): the use of tax-exempt entities or those with special tax privileges; inter-related company loans and advances; cost sharing; and the supply of goods and services.
 - 2.1. In the conduct of audits of inter-related companies and conglomerates, particular attention should be given to transfer pricing issues, which should be considered in the audit findings of the aforesaid establishments.
3. The audit of LGUs, NGAs and GOCCs shall be undertaken to ensure strict compliance with the requirements of internal revenue laws and regulations on the correct withholding and remittance of taxes.

B. Procedures

1. To initiate an audit / investigation, the NID shall submit a memorandum – request directly to the Office of the Commissioner (OCIR), identifying the conglomerate / group of companies that is to be audited, and providing a brief background of the conglomerate / group, as well as the justifications for the conduct of an audit / investigation.
2. In the event that the Commissioner should approve the conduct of the requested audit / investigation, the OCIR shall cause the preparation of the corresponding Letter of Authority (LA) for the concerned conglomerate / group, for the signature of the Commissioner.
3. To avoid the double-issuance of LAs for a single conglomerate / group of companies, the NID shall inform the Large Taxpayers Service or the Regional Office having original jurisdiction over the concerned taxpayer(s) that the NID has been authorized to conduct an audit / investigation on the taxpayer.
 - 3.1. In notifying the LTS or the Regional Office concerned, the NID shall make use of the pro-forma notification provided in Annex A of this Order.
4. The NID shall, immediately upon receipt of the signed LA from the OCIR, notify the concerned taxpayer(s) of the change of jurisdiction for the audit / investigation, using pro-forma “Notice of Change of Jurisdiction” provided in Annex B of this Order.
5. In the event that an LA [including Tax Verification Notices (TVNs)] has already been issued by the LTS or the Regional Office, the same shall be considered as automatically invalidated. The investigating unit concerned shall then, upon

receipt of the Notification from the NID, forward the entire docket of their investigation to the NID, for consolidation.

- 5.1. In the event that no LA has yet been issued, the LTS or the Regional Office concerned shall desist from issuing an LA (or TVN) to the taxpayer(s) identified by the NID.
6. In the conduct of audits / investigations under this Order, and in order to facilitate the development of cases for the RATE Program, the NID is hereby authorized to obtain, from any Bureau office, any internal revenue information that may assist in the conduct of such audits / investigations.
 - 6.1. The Division may also communicate with other Government offices, agencies and instrumentalities in gathering data pertinent to an audit / investigation. In such instance, the NID shall prepare, for the signature of the Commissioner, the appropriate communication to request from the concerned Government office the information needed in for a particular audit / investigation.
7. All other subsequent activities following the conduct of an audit / investigation (i.e. submission of audit reports, issuance of Assessment Notices, etc.) shall observe the established rules and regulations for the conduct of such activities, subject to final review and approval by the Commissioner.
8. Cases that are found to be qualified for the RATE Program, following the conduct of an audit / investigation under this Order, shall be given priority, and all concerned Offices must take the necessary action therein within ten (10) days from their receipt of the report of investigation.

III. REPEALING CLAUSE

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

IV. EFFECTIVITY

This Order shall take effect immediately.

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