November 15, 2018

BIR RULING NO. 1327-18

Section 270 of the Tax Code of 1997, as amended; BIR Ruling No. 010-11; RMC 50-2016

AAA

_____

_____

_____

Sir :

This refers to your letter dated February 28, 2017 duly indorsed by the Department of Finance, requesting for copies/records or certification related to: (a) the tax payments of _____ Customs Brokerage; (b) tax payments of Mayor BBB relative to his accumulated wealth; and (c) tax payments of Mayor BBB relative to his income during the period of wealth accumulation.

In reply, please be informed that information about a taxpayer's tax return is afforded the highest degree of confidentiality. No official or employee of the Bureau of Internal Revenue (BIR) may divulge information regarding a tax return without violating Section 270 of the National Internal Revenue Code, as amended ("Tax Code"), which states that:

> *"SEC. 270. Unlawful Divulgence of Trade Secrets.* [1] *— Except as provided in Sections 6 (F) and 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of Internal Revenue who divulges to any person or makes known in any other manner than may be provided by law information regarding the business, income, or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of his official duties, 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), or suffer imprisonment of not less than two (2) years but not more than five (5) years, or both.*

While there are exceptions to the abovementioned provision of the Tax Code, none of

Copyright 2020 CD Technologies Asia, Inc.

them are availing under the facts as represented. Section 71 of the Tax Code states:

> *"SECTION 71. Disposition of Income Tax Returns, Publication of List of Taxpayers and Filers. — After the assessment shall have been made, . . . the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the Office of the Commissioner and shall constitute public records and be open to inspection as such upon the order of the President of the Philippines, under rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner. . . . "*

On the other hand, Section 26 of Republic Act No. 6388, states that:

> *"SECTION 26. Certificate of Candidacy. — No person shall be eligible unless, within the time fixed by law, he files a sworn certificate of candidacy stating in said certificate that he announces his candidacy for the office mentioned therein and that he is eligible for the office; . . .*
>
> *The certificate of candidacy shall likewise state his gross income, including deductions and exemptions therefrom and that he has paid his income taxes as assessed for the last two years immediately preceding the election, including the receipt numbers and places of such payments, unless the candidate was exempt from paying income taxes, or his tax obligations are pending final determination, in which case he shall so state in his certificate of candidacy; and shall furthermore contain a waiver of the privilege from public disclosure of his income tax return and tax census statement for the said two-year period, except financial statements attached thereto, said waiver to be effective only during the period of his candidacy."*

It is evident from the above provision that BIR personnel cannot divulge information gained from taxpayers concerning the latter's business, income, or estate as well as the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer. Any documents containing these types of information in the BIR's possession are not considered as public documents but are in fact treated as confidential, in accordance with Section 270 of the same Tax Code.

The divulgence of confidential information does not only erode the confidence of the taxpaying public in the reliability and ability of the BIR to safeguard the secrecy of the information, but also puts life and safety in danger. As such, the BIR issued Revenue Memorandum Circular (RMC) 50-2016, reminding its officials and employees that the unauthorized disclosure or divulgence of official or confidential information is criminally and administratively punishable by law and existing revenue issuances. The circular serves as a warning to revenue officials and employees that they will be held criminally and administratively liable if they violate the law.

In view thereof, as the exceptions do not apply under the facts as represented, we

Copyright 2020 CD Technologies Asia, Inc.

regret to inform you that under the strict mandate of the law, we cannot accede to your request for such information. (BIR Ruling No. 010-11 dated January 19, 2011)

Very truly yours,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. As amended by RA 10021 (March 5, 2010) and implemented by Revenue Regulations No. 10-2010 (October 6, 2010) and Revenue Memorandum Circular No. 029-10 (March 19, 2010).

Copyright 2020 CD Technologies Asia, Inc.