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

February 18, 2014

REVENUE MEMORANDUM CIRCULAR NO. 11-2014

SUBJECT: Clarifying Certain Issues Relative to Due Process Requirement in the Issuance of a Deficiency Tax Assessment Pursuant to Revenue Regulations (RR) 12-99, as amended by RR 18-2013.

TO : All Internal Revenue Officers and Others Concerned

This Circular is issued to clarify certain issues relative to the amendments introduced to Revenue Regulations (RR) 12-99 by RR 18-2013.

(1) RR 12-99, as amended by RR 18-2013, provides that the Commissioner or his duly authorized representative shall issue the Preliminary Assessment Notice (PAN), Formal Letter of Demand/Final Assessment Notice (FLD/FAN) and Final Decision on Disputed Assessment (FDDA). The term "duly authorized representative" therein refers to Revenue Regional Directors, Assistant Commissioner-Large Taxpayers Service, and Assistant Commissioner-Enforcement and Advocacy Service.

Accordingly, pursuant to Revenue Memorandum Circular No. 39-2013, taxpayers shall submit/file their responses to the PAN and protests (requests for reconsideration/reinvestigation) to the FLD/FAN with the duly authorized representative of the Commissioner who signed the PAN and FLD/FAN. Protests in the nature of requests for reconsideration of taxpayers elevated to the Commissioner arising from inactions or adverse decisions of the "duly authorized representatives" shall be filed with the Office of the Commissioner.

(2) Prior to the issuance of the PAN, the taxpayer may be allowed to make voluntary payments of probable deficiency taxes and penalties.

(3) An FLD/FAN issued reiterating the immediate payment of deficiency taxes and penalties previously made in the PAN is a denial of the response to the PAN. A final demand letter for payment of delinquent taxes may be considered a decision on a disputed assessment (*Commissioner of Internal Revenue vs. Isabela Cultural Corporation; G.R. No. 135210; July 11, 2001*). This includes a disputed PAN. So long as the parties are given the opportunity to explain their side, the requirements of due process are satisfactorily complied with (*Calma vs. Court of Appeals; G.R. No. 122787; February 9, 1999*).

(4) An FDL/FAN issued beyond fifteen (15) days from filing/submission of the taxpayer's response to the PAN shall be valid, provided that, it is issued within the period of limitation to assess internal revenue taxes. The non-observance of the fifteen (15)-day period, however, shall constitute an administrative infraction and the revenue officers who caused the delay shall be subject to administrative sanctions as provided for by law and pertinent revenue issuances.

(5) RR 12-99, as amended by RR 18-2013, provides that "*[f]or requests for reinvestigation, the taxpayer shall submit all relevant supporting documents in support of his protest within sixty (60) days from date of filing of his letter of protest, otherwise, the assessment shall become final.*" The term "*the assessment shall become final*" means that the failure of the taxpayer who requested for a reinvestigation to submit all relevant supporting documents within the sixty (60)-day period shall render the FLD/FAN "final" by operation of law. He/it shall be barred from disputing the correctness of the FLD/FAN by the introduction of newly discovered or additional evidence because he/it is deemed to have lost his/its chance to present these evidence. The BIR shall then deny the request for reinvestigation through the issuance of an FDDA.

(6) The notice (PAN/FLD/FAN/FDDA) shall first be served to the taxpayer's registered address before the same may be served to the taxpayer's known address, or in the alternative, may be served to the taxpayer's registered address and known address simultaneously.

All other issuances inconsistent herewith are hereby repealed or modified accordingly.

All concerned are hereby enjoined to be guided accordingly and give this Circular as wide a publicity as possible.

This Circular shall take effect immediately.

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