REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

June 29, 2012

REVENUE MEMORANDUM CIRCULAR NO. 29-2012

SUBJECT: Waiver of the Defense of Prescription under the Statute of Limitations

TO : All Revenue Officials, Employees and Others Concerned

This Circular is being issued to clarify the form to be used for Waiver of the Defense of Prescription under the Statute of Limitations prescribed in Sections 203, 222 and other related provisions of the National Internal Revenue Code of 1997, as amended.

BACKGROUND

Revenue Memorandum Order (RMO) No. 20-90 dated April 4, 1990 was issued to provide guidelines in the proper execution of the Waiver of the Statute of Limitations under the National Internal Revenue Code (hereinafter referred to as "Waiver"). RMO No. 20-90 prescribed the use of a particular waiver form and required that there should be no deviation from such form.

On August 2, 2001, Revenue Delegation Authority Order (RDAO) No. 05-01 was issued. Aside from authorizing subordinate officials to sign Waivers, RDAO No. 05-01 introduced a new Waiver form.

Subsequently, Revenue Memorandum Circular (RMC) No. 06-05 dated February 2, 2005 was issued to circularize the salient features of the decision of the Supreme Court in the case of Philippine Journalists, Inc. v. Commissioner of Internal Revenue, G.R. No. 162852, promulgated on December 16, 2004, to wit:

> "1. A **waiver of the statute of limitations** under the Tax Code **must conform strictly with the provisions of Revenue Memorandum Order No. 20-90** in order to be valid and binding.
>
> x x x" (emphasis supplied)

The statement in RMC No. 06-05 citing the Supreme Court decision that "a waiver of the statute of limitations under the Tax Code must conform strictly with the provisions of Revenue Memorandum Order No. 20-90" led some to believe that the Waiver form

prescribed under RMO No. 20-90 should be used instead of the waiver form mandated under RDAO No. 05-01.

CLARIFICATION

The aforecited Supreme Court decision pertains to a case involving a tax assessment for the year 1994 and a waiver executed in 1997. Thus, in resolving the case, the relevant BIR issuance is RMO No. 20-90 and not RDAO No. 05-01 which took effect only in 2001.

The provisions of RMO No. 20-90 should be strictly complied with in order for a Waiver to be valid. However, the Waiver form prescribed in RMO No. 20-90 should no longer be used as the same has been revised per RDAO No. 05-01.

A copy of the Waiver form prescribed under RDAO No. 05-01 is hereto attached as Annex "A" for reference.

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

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