REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

July 13, 2006

REVENUE MEMORANDUM CIRCULAR NO. 40 - 2006

SUBJECT : **Clarification On The Jurisdictions Of The Large Taxpayer Service, The Enforcement Service And The Revenue Regions Including The Revenue District Offices And Divisions under Them, Performing Audit And Investigation Functions, And Guidelines For The Exercise Of Such Jurisdictions and Functions.**

TO : All Deputy Commissioners, Assistant Commissioners, Regional Directors, Revenue District Officers, Division Chiefs, Employees and Others Concerned.

A. OBJECTIVES – This Circular is issued to clarify certain issues concerning the jurisdictions of the Large Taxpayer Service (LTS), the Enforcement Service (ES) and the Revenue Regions, including the Revenue District Offices (RDOs) and Divisions under them, performing audit and investigation functions, and to prescribe guidelines and procedures which must be observed in the performance of such audit and investigation functions and in the disposition of tax cases.

B. POLICIES – The following guidelines shall be strictly implemented, observed and complied with:

B.1 General

a) Priority in the conduct of audit and investigation of taxpayers is hereby given to Offices with collection goals, i.e. LTS, Revenue Regions and RDOs, as the officials and employees assigned thereat are subject to the provisions of Republic Act No. 9335 (Attrition Act of 2005).

b) No Letters of Authority (LAs)/Audit Notices (ANs) shall be issued nor cases investigated without the prior approval of the Commissioner or Assistant Commissioner, LTS or Regional Directors, as the case may be, if per Letters of Authority Monitoring System (LAMS) verification which is hereby made mandatory, there will be a resulting duplication of LAs/ANs (RMO No. 8-2006). Verification with LAMS must be made before (not after) the LAs/ANs are filled up and submitted for signature of the proper signatory. The request for issuance of

LAs/ANs must be accompanied with a note duly signed by the proponent that LAMS has been verified.

c) No new LA/AN shall be issued against any taxpayer already covered by a LA/AN issued by the Commissioner.

d) Any conflict as to audit and investigation jurisdictions of the above offices must be reported to the Office of the Commissioner immediately after discovery thereof. The Commissioner shall have the exclusive authority to resolve any such conflict at the earliest opportunity to avoid delay in the conduct of audit or investigation. All documents related to the subject matter shall be forwarded to the Office of the Commissioner for appropriate action and decision.

e) The 120-day rule on the revalidation of LA/AN shall be applicable in all cases (RMO No. 38-88).

f) The Commissioner shall direct the conduct of random post audit, from time to time, to determine compliance with existing issuances relative to the conduct of audit or investigation, submission of reports, etc.

g) No new special team shall be created without the approval of the Commissioner. The proponent for the creation of a special team shall submit to the Office of the Commissioner his proposal with required attachments, such as but not limited to the following: a memorandum with justifications as to the objective/s or goals of the project; the manner how the team shall conduct the audit or investigation; the procedures to be adopted in implementing the project; the potential results thereof from which the Bureau will benefit from the creation of said team, other applicable documents, etc. In case the proposal is approved, the proponent shall submit to the Commissioner for approval the list of Revenue Officials/Officers that will constitute the team, the list of taxpayers to be audited and the detailed audit procedures to be undertaken. The same shall thereafter be embodied in an Revenue Special Order signed by the Commissioner. Furthermore, the Commissioner shall also have the sole authority to sign the corresponding LAs/ANs, approve the reports of investigation either as a result of Informal Conference, Pre-Assessment Notice or Final Assessment Notice or offer of payment by the taxpayers to any proposed deficiency tax/es or those issued with Final Assessment Notices originating from said team.

B.2 Specifics

a) Large Taxpayer Service (LTS)

1. The Assistant Commissioner, Large Taxpayers Service, has the exclusive power to issue LAs/ANs to conduct audit and investigation on the internal revenue tax liabilities of large taxpayers under its jurisdiction, whether regular audit or cases developed as a result of

third party information available in the Bureau, except in cases where the Commissioner directs otherwise such as (a) cases under the RATE Program, (b) cases already issued LAs/ANs by ES/National Investigation Division (NID) signed by the Commissioner as of the date of this RMC, or (c) cases arising from duly filed confidential information by informers, in which cases, the Commissioner shall decide as to which office, whether LTS or ES/NID, shall pursue the audit and investigation and he shall be the one to sign the corresponding LAs/ANs superseding all previously issued LAs/ANs. (E.O. No. 175, as amended by E.O. No. 306). In the event that the Commissioner decides that LTS shall pursue the audit and investigation of the cases filed by confidential informer, the existing revenue issuances on the filing of confidential information for violations of the NIRC, guidelines in the development of fraud cases (RMO No. 15-95, as amended), and procedures and approval for claims for rewards by informers (RMO No. 12-93, as amended) shall nonetheless, be strictly observed and complied with, even if the investigation is handled by the LTS.

2. Reports of investigation shall be reviewed by the LTS and shall be approved by the ACIR – LTS, however, cases mentioned as exceptions above shall be approved by the Commissioner. Further, cases approved by the ACIR – LTS shall be subject to random post audit as the Commissioner may, from time to time, direct.

b) Enforcement Service

1. Only cases involving unregistered taxpayers and those qualified under the RATE Program as well as meritorious fraud cases, including cases as may be selected by the Commissioner, shall be audited and investigated by ES/NID.

2. The existing issuances and guidelines for the development of fraud cases shall be strictly complied with.

3. The Commissioner shall have the exclusive authority to approve all request of ES/NID for issuance of LAs/ANs as a result of preliminary investigation based on duly filed confidential information by an informer or cases developed as a result of third party information available in the Bureau or from third party information with prima facie evidence of fraud, including cases for the RATE Program, and to sign the corresponding LAs/ANs thereof.

4. If the result of preliminary investigation cannot establish the existence of fraud, the case shall be transmitted to the concerned RDO or LT office having jurisdiction of the taxpayer for continuation of

audit/investigation of the non-fraud case. If the preliminary investigation was initiated because of confidential information duly filed by an informer, the procedures and approval for claims for rewards by informers shall nonetheless be observed even if the investigation is continued by the RDO concerned (RMO No. 12-93, as amended).

5. If after LAs/ANs have been issued to ES/NID, but in the course of investigation, fraud could not be established with the required quantum of evidence, the case shall be immediately transmitted to the concerned RDO or LT office having jurisdiction of the taxpayer for continuation of audit/investigation. If the investigation was initiated because of confidential information duly filed by an informer, the procedures and approval for claims for rewards by informers shall nonetheless be observed even if the investigation is continued by the RDO concerned (RMO No. 12-93, as amended).

6. Reports of investigation of cases with fraud, either assessment or collection, shall be reviewed by ACIR-ES and approved by DCIR-LIG pursuant to existing issuances. However, if the resultant aggregate deficiency income and business taxes proposed to be assessed and collected is less than 60% of the aggregate basic tax due paid per return for income and business taxes for the year covered, with at least P10 million aggregate tax due, in cases of non-large taxpayers, and at least P50 million in cases of large taxpayers, final approval thereof shall be made by the Commissioner. For cases not covered by this provision, such as but not limited to where no return was filed, approval thereof shall likewise be made by the Commissioner.

7. The provisions of Revenue Delegation Authority Order (RDAO) No. 08-01 and other issuances wherein authority to sign documents have been duly delegated shall continue to be effective with respect to pending dockets of ES/NID, except those which were already transmitted to the Office of the Commissioner as of the date of this RMC, or cases contemplated in this RMC that will have to be decided upon or approved by the Commissioner, and in instances wherein the Commissioner may, from time to time, direct otherwise. RDAO No. 08-01 is hereby effectively amended to the extent that the same is inconsistent herewith.

c) Revenue Regions

1. The applicable Audit Program shall apply for all types of audit/investigation being undertaken by the RDOs or SIDs, if there is any, except, when the Commissioner orders otherwise.

2. Each RDO or Special Investigation Division (SID) of Revenue Regions shall develop at least one (1) tax fraud case per month (RMO No. 44-93). The procedures under existing revenue issuances shall be strictly observed (e.g., RMO No. 15-95, etc).

3. Existing procedures relative to review and approval of reports of investigation shall be strictly observed. However, if the resultant aggregate deficiency income and business taxes proposed to be assessed and collected is less than 40% of the aggregate basic tax due as aforementioned, with at least P5 million aggregate tax due, the final approval thereof shall be made by the Assistant Commissioner – Assessment Service.

4. The Commissioner shall, from time to time, direct the conduct of random post audit on terminated cases.

C. VIOLATIONS AND PENALTIES – Any violation of the foregoing instruction by any revenue official or official shall be a ground for the imposition of appropriate administrative sanctions/penalties.

D. REPEALING CLAUSE – All existing revenue memorandum circulars, orders and other issuances inconsistent herewith are hereby repealed, modified or amended accordingly.

E. EFFECTIVITY – This order shall take effect immediately.

(Original Signed)
JOSE MARIO C. BUÑAG
Commissioner of Internal Revenue