REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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September 5, 2018

Revenue Memorandum Circular No. 75-2018

Subject : **The Mandatory Statutory Requirement and Function of a Letter of Authority .**

To : **All Internal Revenue Officers and Others Concerned**

This Circular is being issued to highlight the doctrinal rule enunciated by the Supreme Court in the case of " Medicard Philippines, Inc. vs. Commissioner of Internal Revenue" (G.R. No. 222743, 05 April 2017) on the mandatory statutory requirement of a Letter of Authority (LOA), for the guidance of all concerned, particularly internal revenue officers tasked with assessment and collection functions and review of disputed assessments.

The judicial ruling , invoking a specific statutory mandate, states that no assessments can be issued or no assessment functions or proceedings can be done without the prior approval and authorization of the Commissioner of Internal Revenue (CIR) or his duly authorized representative, through an LOA. The concept of an LOA is therefore clear and unequivocal . Any tax assessment issued without an LOA is a violation of the taxpayer's right to due process and is therefore "inescapably void."

The Court further emphatically clarified that :

1. The circumstances contemplated under Section 6 of the National Internal revenue Code (NIRC) , as amended, "where the taxpayer may be assessed through best evidence obtainable , inventory-taking or surveillance, among others, have nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority."

2. A Letter Notice (LN) "is entirely different and serves a different purpose than an LOA". It is not found in the NIRC and is not an authority to conduct an audit or examination of the taxpayer leading to the issuance of deficiency assessments . Due process demands that after an LN has served its purpose , the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of taxpayer.

To help forestall any unnecessary controversy and to encourage due observance of the judicial pronouncements, any examiner or revenue officer initiating tax assessments or performing assessment functions without an LOA shall be subject to appropriate administrative sanctions.

The provisions of any internal revenue issuance inconsistent herewith are hereby repealed , amended or modified accordingly.

All internal revenue officials and employees concerned are hereby enjoined to give this Circular as wide publicity as possible.

CAESAR R. DULAY
Commissioner of Internal Revenue

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