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

ANGAT PA, PINAS!

April 4, 2016

REVENUE MEMORANDUM ORDER NO. 14-2016

SUBJECT : Guidelines for the Execution of Waivers from the Defense of Prescription Pursuant to Section 222 of the National Internal Revenue Code of 1997, As Amended.

TO : All Revenue Officials, Personnel and Others Concerned

I. Objective

This Revenue Memorandum Order is being issued to revise the guidelines relative to the execution of Waiver of the Statute of Limitations under Section 222 in relation to Section 203 of the National Internal Revenue Code of 1997 (NIRC), as amended, as prescribed by Revenue Memorandum Order (RMO) No. 20-90 dated April 4, 1990 and Revenue Delegation Authority Order (RDAO) No. 05-01; and clarified in Revenue Memorandum Circular (RMC) Nos. 06-05 and 29-12 dated February 2, 2005 and June 29, 2012, respectively.

II. Background

Section 222 (b) of the NIRC, as amended, provides that the Commissioner of Internal Revenue or her duly authorized representative and the taxpayer or its authorized representative may agree in writing as to a specific future date within which to assess the taxpayer for internal revenue taxes for a given taxable period, before the expiration of the period to assess taxes prescribed in Section 203 of the same Code,

Moreover, pursuant to Section 222 (d) of the NIRC, as amended, the Commissioner of Internal Revenue or her duly authorized representative and the taxpayer or its authorized representative may agree in writing as to specific future date within which to collect from the taxpayer the assessed internal revenue taxes for a given taxable period, before the expiration of the period to collect taxes.

However, it has been a rampant practice by the taxpayers to contest the validity of their own waivers of the statute of limitations after having availed of the benefits thereof. Thus, there is a clear necessity to revise the procedures provided for the proper execution of such waivers.

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III. Guidelines

1. The waiver **may be, but not necessarily**, in the form prescribed by RMO No. 20-90 or RDAO No. 05-01. The taxpayer's failure to follow the aforesaid forms does not invalidate the executed waiver, for as long as the following are complied with:

    a) The Waiver of the Statute of Limitations under Section 222 (b) and (d) shall be executed before the expiration of the period to assess or to collect taxes. The date of execution shall be specifically indicated in the waiver.

    b) The waiver shall be signed by the taxpayer himself or his duly authorized representative. In the case of a corporation, the waiver must be signed by any of its responsible officials;

    c) The expiry date of the period agreed upon to assess/collect the tax after the regular three-year period of prescription should be indicated;

2. Except for waiver of collection of taxes which shall indicate the particular taxes assessed, the waiver need not specify the particular taxes to be assessed nor the amount thereof, and it may simply state "all internal revenue taxes" considering that during the assessment stage, the Commissioner of Internal Revenue or her duly authorized representative is still in the process of examining and determining the tax liability of the taxpayer.

3. Since the taxpayer is the applicant and the executor of the extension of the period of limitation for its benefit in order to submit the required documents and accounting records, the taxpayer is charged with the burden of ensuring that the waivers of statute of limitation are validly executed by its authorized representative. The authority of the taxpayer's representative who participated in the conduct of audit or investigation shall not be thereafter contested to invalidate the waiver.

4. The waiver may be notarized. However, it is sufficient that the waiver is in writing as specifically provided by the NIRC, as amended.

5. Considering that the waiver is a voluntary act of the taxpayer, the waiver shall take legal effect and be binding on the taxpayer upon its execution thereof.

6. It shall be the duty of the taxpayer to submit its duly executed waiver to the Commissioner of Internal Revenue or official/s previously designated in existing issuances or the concerned revenue district officer or group supervisor as designated in the Letter Of Authority/Memorandum of Assignment who shall then indicate acceptance by signing the same. Such waiver shall be executed and duly accepted prior to the expiration of the period to assess or to collect. The taxpayer shall have the duty to retain a copy of the accepted waiver.

7. Note that there shall only be two (2) material dates that need to be present on the waiver:

    a) The date of execution of the waiver by the taxpayer or its authorized representative; and
    b) The expiry date of the period the taxpayer waives the statute of limitations

8. Before the expiration of the period set on the previously executed waiver, the period earlier set may be extended by subsequent written waiver made in accordance with this Order.

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IV. REPEALING CLAUSE. —

The provisions of Revenue Memorandum Order No. 20-90 dated 4 April 1990 and all other rules, orders or portions thereof that are contrary to or inconsistent with the provisions of this Order are hereby modified and/or repealed accordingly.

V. EFFECTIVITY. —

This Order shall take effect immediately.

KIM S. JACINTO-HENARES
Commissioner of Internal Revenue

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