REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

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Date

REVENUE MEMORANDUM ORDER NO. 22-2022

SUBJECT : Amending certain provisions of RMO No. 9-2022 (Use of Video Conference Hearing as Alternative Mode to Face-to-Face Formal Investigation/Hearing for Administrative Cases, Amendment to RMO 19-2011)

TO : All Officials and Employees of the Bureau of Internal Revenue and Others Concerned

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I. BACKGROUND

Revenue Memorandum Order (RMO) No. 9-2022 dated January 21, 2022, *"Use of Video Conference Hearing as Alternative Mode to Face-to-Face Formal Investigation/Hearing for Administrative Cases, Amendment to RMO 19-2011"*, was issued to amend RMO 19-2011 (Promulgation and Implementation of the Revised Rules of Procedure in the Investigation / Hearing of Administrative Cases), and adopt an alternative mode of conducting formal investigation / hearing of administrative cases.

II. OBJECTIVE

This Order is issued to amend certain provisions of RMO 9-2022 to provide additional procedures and guidelines, as well as the inclusion of specific platform/s that are allowed to be used.

III. AMENDATORY PROVISIONS

A. Item III shall be amended and read as follows:

"III. COVERAGE AND DIGITAL PLATFORM USED

A. APPLICABILITY OF VIDEO CONFERENCE HEARINGS

1. The PAD may order motu proprio the conduct of a video conference hearing in the following instances:

a. Acts of God, such as typhoons, floods, earthquakes, or other unforeseen events, and human-induced events, such as fires, strikes, lockdowns, those which

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limit physical access to the venue of hearings, and other instances posing threats to the security and safety thereof;

b. *Periods of public emergencies officially declared by the concerned agency of the government;*

c. *The inability or difficulty of a litigant, witness or counsel to physically appear in hearings due to security risks in his or her transport in going to and from the venue of hearings, real and apparent danger to his or her life, security or safety, serious health concerns, vulnerability of the witness due to age, physical condition, disability, or the fact that he or she is a victim of a sexual offense or domestic violence; and*

d. *When, based on the sound judgment of the assigned Hearing Officer, there are compelling reasons that justify the resort to videoconferencing.*

B. *VIDEOCONFERENCING INITIATED BY MOTION*

1. *The respondent or his/her counsel, or the prosecutor may, by motion, request that the proceedings be conducted through the said alternative mode, stating therein the following:*

   a. *Grounds being invoked by the movant;*
   b. *Evidence to support such grounds;*
   c. *Expected location of the respondent;*
   d. *Names of witnesses to be presented and their expected location; and*
   e. *E-mail addresses of the concerned parties, their counsel, and the witnesses to be presented.*

   And a statement that the movant and the intended witnesses are technically ready to participate in the videoconferencing.

   The motion shall be filed through e-mail and/or personally with the PAD, serving a copy on the adverse litigant by the same means, at least ten (10) calendar days before the scheduled hearing dates.

2. *The respondent-movant, or the prosecutor shall file, through e-mail and/or personally, its comment or opposition to the motion within five (5) calendar days from receipt of the motion.*

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With or without the comment of the respondent-movant or prosecutor, the assigned Hearing Officer shall resolve the motion within five (5) calendar days before the scheduled video conference hearing by issuing an order that will be served through e-mail containing the following matters:

a. ***the date, time and log-in credentials of the platform to be used;***
b. ***the names of the witnesses to be presented;***
c. ***the expected location of each participant;***
d. ***the software or platform to be used for the videoconferencing;***
e. ***the e-mail addresses of the participants as reflected in the case docket, to be used for the purpose of the videoconferencing, with notice that said e-mail addresses are deemed valid unless the concerned participants inform the court of any changes thereto at least three (3) calendar days before the scheduled video conference hearing;***
f. ***that all details and information used to gain access to the proceedings shall be treated with strict confidentiality, as any unauthorized sharing of said details without proper authority shall be dealt with accordingly based on the Data Privacy Act; and***
g. ***such other matters as may be necessary to define the parameters of the videoconferencing.***

The order, aside from the date, time and log-in credentials, shall likewise include the link of the video conference hearing if served through e-mail.

3. ***The participants shall notify the Hearing Officer through e-mail, confirming and acknowledging receipt of the order.***

C. PLATFORM

Formal investigation/hearing via video conference shall only use the ***officially provided Zoom, or MS Teams application, or any such licensed video conferencing application as officially authorized by the BIR Information Systems Group to host such hearings****. The Hearing Officer shall also utilize,* ***as electronic means****, the official e-mail accounts or authorized BIR webmails."*

B. Item V - PRELIMINARY NOTICE OF HOLDING HEARINGS is hereby amended as follows:

"V. SUBPOENA AND NOTICE OF HEARING

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1) ***The assigned Hearing Officer shall host the hearings held via the officially provided Zoom, or MS Teams application, or any such licensed video conferencing application as officially authorized by the BIR Information Systems Group.***

2) ***If resort to video conference hearing was based on the initiative and sound judgment of the assigned Hearing Officer, the subpoena and notice of hearing, aside from the date, time and venue of hearing, shall also state the official e-mail account or authorized BIR webmail for communication purposes, and log-in credentials of the platform to be used.***

   The respondent or prosecutor shall be required to provide the assigned Hearing Officer of the pertinent information needed such as, but not limited to, the names of the participants with corresponding e-mail addresses, including their witnesses.

3) ***Although the hearings shall not be conducted via videoconferencing, the subpoena and notice of hearing shall expressly state, that the participants and their witnesses may resort to such alternative mode and allow them to appear from remote locations using the authorized platforms, where issues of safety and health protocols are involved or when travel or movement is restricted by reason of official guidelines issued by the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF-EID), including those instances covered under Item III (A).***

4) ***Proof of receipt of notification email/s shall be properly recorded and included in the case docket.***

C. Item VI shall be ***"CONDUCT OF HEARINGS"***.

D. Item VII shall be ***"PRESENTATION OF EVIDENCE"*** *and read as follows:*

"VII. PRESENTATION OF EVIDENCE

1. ***Documentary evidence, including attachments thereto, affidavits and other relevant pieces of evidence, unless already part of the records of the case, shall be filed and served at least three (3) calendar days prior to the scheduled videoconferencing.***

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During the video hearing conference, the presiding Hearing Officer may direct a respondent or his/her counsel, or the prosecutor to share documentary evidence on-screen for purposes of marking, authenticating and presenting.

Should the exhibition, examination or viewing of the documentary evidence be rendered impossible, insufficient or difficult by the limitations of the platform or for some other compelling reasons, in-court hearings may instead be ordered by the assigned Hearing Officer for the purpose of presenting or completing the testimony of a witness.

E. Item VIII shall be read as:

"VIII. TECHNICAL SUPPORT

1) x x x.
2) x x x.
3) Hearing Officers of PAD are advised to familiarize themselves of the videoconference procedures using the ***officially provided Zoom, or MS Teams application, or any such licensed video conferencing application as officially authorized by the BIR Information Systems Group,*** *and enlist the support of NMTSD in the conduct of actual demonstrations.*
4) In the event that network issues or similar problems occur, the Network Management and Technical Support Division (NMTSD) shall be notified for technical assistance.

D. Item VII shall be amended and read as:

"IX. RECORDING OF HEARINGS

1) The proceedings shall be recorded by the Hearing Officer using the ***officially provided Zoom, or MS Teams application, or any such licensed video conferencing application as officially authorized by the BIR Information Systems Group. The Hearing Officer shall likewise save a copy of these video recordings in a storage drive for filing purposes which shall form part of the records of the case."***

2) x x x
3) x x x
4) x x x

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IV. REPEALING CLAUSE

All revenue issuances or portions thereof inconsistent herewith are hereby revoked and/or amended accordingly.

V. EFFECTIVITY

This Order takes effect immediately.

CAESAR R. DULAY
Commissioner of Internal Revenue

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