REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Making the Public Know

March 15, 2010

REVENUE MEMORANDUM ORDER No. 27-2010

SUBJECT : Re-invigorating the Run After Tax Evaders (RATE) Program, and Amending Certain Portions of RMO No. 24-2008

TO : All Internal Revenue Officials, Employees and Others Concerned

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I. OBJECTIVE

It is the mandate of the Bureau of Internal Revenue to investigate criminal violations of the National Internal Revenue Code (hereinafter referred to as the "Tax Code") of 1997, and to prosecute such cases. This mandate is intended to deter, to the greatest possible degree, tax evasion practices, and to encourage voluntary compliance with the internal revenue tax laws.

In support of this mandate, the Run After Tax Evaders (RATE) Program was instituted in 2005.

This Order is being issued to re-invigorate the RATE Program, by providing enhanced policies and guidelines for the continuing development, investigation, and prosecution of RATE cases.

II. POLICIES AND PROCEDURES

The following policies and guidelines shall be observed in the development and investigation of RATE cases, in addition to those set forth in the relevant revenue issuances:

A. Development of RATE Cases

1. The development of RATE cases shall be the principal responsibility of the National Investigation Division (NID), and of the Special Investigation Divisions (SIDs). The Taxpayer Lifestyle Check System prescribed in Revenue Memorandum Order No. 19-2010, among others, shall be used in the development of RATE cases.

2. The BIR, through the NID/SIDs, shall coordinate with the concerned government agencies, such as, but not limited to the Department of Justice, the National

Bureau of Investigation, the Criminal Investigation and Detection Group (CIDG), and other entities, in the development, investigation and prosecution of RATE cases, and in preventing the concealment / disposal / transfer of assets by taxpayer being investigated under the RATE Program. To this end, the BIR shall initiate the promulgation of appropriate Memoranda of Agreement (MOAs) with the concerned Government Agencies.

3. To expedite the development of RATE cases, the Revenue District Offices (RDOs), the Large Taxpayers Service (LTS) and its District Offices and Divisions, shall act immediately in all requests from the NID or the SIDs for information needed to validate or develop RATE cases. ***Failure of an RDO/LTS District Office or Division to provide the requested information within fifteen (15) working days from receipt of a request for information shall be considered as sufficient grounds for the imposition of administrative disciplinary action against the concerned office.***

4. Upon the discovery of evidence of fraud in the course of a regular audit investigation, the RDO/LTS District Office or Division shall immediately transmit the records of the case to the NID or the SID concerned, for investigation under the RATE Program.

B. Issuance of Letters of Authority for RATE Cases

1. In all RATE cases, a preliminary investigation must first be conducted to establish *prima facie* evidence of fraud or tax evasion. Such investigation shall include the verification and determination of the schemes employed and the extent of fraud perpetrated by the subject taxpayer.

2. In the event that, following the conduct of the required preliminary investigation, the NID / SIDs should determine that there is *prima facie* evidence of tax fraud, it shall submit the case, together with a memorandum justifying the issuance of a Letter of Authority (LA) to the Deputy Commissioner – Legal and Inspection Group (DCIR-LIG), through the Assistant Commissioner (Enforcement Service) / the concerned Regional Director, for evaluation.

   The DCIR-LIG shall then evaluate the request, and determine whether the same shall be recommended for approval by the Commissioner of Internal Revenue. If the DCIR-LIG finds a request meritorious, the docket of the case, together with the memorandum-request bearing the concurrence of the DCIR-LIG, shall be forwarded to the Commissioner, for final review and approval.

3. The DCIR-LIG shall likewise conduct the appropriate verification with the Letter of Authority Monitoring System (LAMS), to ascertain whether a LA for a taxpayer for a particular taxable year has already been issued to the concerned taxpayer.

   In the event that, following such verification, it is ascertained that no LA has been previously issued against the concerned taxpayer, a printout of the LAMS search results must be included in the docket of the case, to support the issuance of the requested LA.

4. If, however, it is disclosed that an LA was previously issued for the concerned taxpayer, and that the corresponding investigation has already been commenced or concluded, the DCIR-LIG shall include in the request for issuance of an LA a recommendation and justification for the re-assignment to, or re-opening of the investigation by, the NID/SID concerned. The Commissioner shall then decide whether the investigation shall be continued by the present investigating office, or if the investigation shall be re-assigned to/re-opened by the NID/SID concerned.

5. In the event that the Commissioner should rule in favor of the re-assignment to/re-opening of the tax investigation by the NID/SID, the DCIR-LIG shall inform the RDO/LT District Office or Division concerned, thru the Regional Director/Assistant Commissioner – LTS, of the decision of the Commissioner, and require the transmittal of the docket of the case to the NID/SID, as well as the cancellation of the existing LA.

6. Should the Commissioner approve a request for issuance of an LA, such approval will be communicated to the DCIR-LIG, for the preparation and issuance of the requested LA by the latter. ***All LAs issued for RATE cases shall be signed by the DCIR-LIG.***

7. The issuance of LAs shall cover only the taxable year(s) for which *prima facie* evidence of tax fraud, or of violations of the Tax Code, was established through the appropriate preliminary investigation, unless the investigation of prior or subsequent years is necessary in order to:

   - Determine or trace continuing transactions entered into in the covered year and concluded thereafter, or those transactions concluded in the covered year that were commenced in prior years; or

   - Establish that the same scheme was utilized for prior or subsequent years.

C. Conduct of Investigation

1. The formal investigation of a RATE case, including the examination of the taxpayer's books of accounts, accounting records and third-party records through the issuance of LAs and/or access letters (if warranted), shall be commenced only after *prima facie* evidence of fraud or tax evasion has been established. In such investigations, the provisions of Section 235 (Preservation of Books of Accounts and Other Accounting Records) of the Tax Code shall be fully observed.

2. In cases where the quantum of evidence gathered is not sufficient to prove guilt beyond reasonable doubt, and as such does not warrant the institution of criminal proceedings against the concerned taxpayer, but there exists clear and convincing evidence that fraud has been committed, a fifty percent (50%) surcharge shall be imposed on the taxpayer, together with the deficiency tax assessment.

3. Payment Forms (BIR Form No. 0605) covering the payment of taxes and surcharges as a result of RATE investigations by the NID shall be approved by the DCIR-LIG. However, Payment Forms for tax payments resulting from RATE investigations conducted by the SIDs shall be signed by the Regional Director concerned, to enable the Regional Office to monitor such payments.

D. Evaluation of RATE Cases

1. Following the conclusion of the formal investigation, the NID/SID shall refer the RATE case, together with the complete set of supporting documents, to the National Office (NO) RATE Team/Legal Division, for evaluation and appropriate action.

2. In the event that the NO-RATE Team/Legal Division should determine that a particular RATE case is insufficient in form and substance, it shall return the case to the NID/SID, for further investigation, specifying the points or aspects that must be enhanced, and/or the additional supporting documents and information that is needed to strengthen the case.

3. However, if a RATE case is found to be sufficient in form and substance:

   - The NO-RATE Team shall prepare the appropriate Complaint Affidavit (CA) and Referral Letter (RL), and forward the same, together with the docket of the case, to the DCIR-LIG, through the Enforcement Service, for review and evaluation.

   - The Legal Division shall prepare the CA and RL, and transmit the docket of the case to the DCIR-LIG, through the concerned Regional Director, for review and evaluation.

4. The NID must be able to report at least two (2) cases per month that have been submitted by the NO-RATE Team to the DCIR-LIG, for prosecution. Each SID must be able to report at least three (3) cases per quarter that have been submitted by the concerned Regional Legal Division to the DCIR-LIG, for prosecution.

E. Prosecution of RATE Cases

1. Following the appropriate review and evaluation, the DCIR-LIG shall then forward all RATE cases recommended for criminal prosecution, together with the corresponding CAs and RLs, to the Office of the Commissioner, for final review, approval and signature, pursuant to Section 220 (Form and Mode of Proceeding in Actions Arising Under this Code) of the Tax Code.

2. The prosecution of RATE cases developed and investigated by the NID shall be carried out by the NO-RATE Team, while the prosecution of RATE cases from the SIDs shall be accomplished by the Legal Divisions. All criminal prosecution

proceedings for RATE cases shall be executed in coordination with the Department of Justice.

F. Civil Remedies and Crediting of Collections

1. Pursuant to the provisions of Sections 205, 206 and 207 of the Tax Code, the Commissioner or any other authorized officer shall, issue the Warrants of Distraint and/or Levy / Warrants of Garnishment, in order to protect the interest of the government over the tax liabilities of a taxpayer undergoing a RATE prosecution.

2. All internal revenue taxes collected as a result of a RATE investigation shall be credited to the RDO or LT District Office / Division having regular jurisdiction over the concerned taxpayer.

III. REPEALING CLAUSE

All revenue issuances which are inconsistent with this Order are hereby revoked, modified or amended accordingly.

IV. EFFECTIVITY

This Order shall take effect immediately.

(Original Signed)
JOEL L. TAN-TORRES
Commissioner of Internal Revenue

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