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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

March 26, 2010

REVENUE MEMORANDUM ORDER NO. 36-2010

Subject : Conglomerate Audit Program for Taxable Year 2009

To : All Internal Revenue Officers and Others Concerned

I. Objective

In view of the tax complexities in the operations of interrelated conglomerates and to establish rules and procedures to address unique issues prevailing among conglomerates, this Order is being issued to govern the conduct of special investigation and enforcement activities of interrelated companies, conglomerates, their affiliates and subsidiaries for taxable year 2009. This Order is being issued to amend Revenue Memorandum Order No. 23-2009 with respect to portions thereof relating to the audit of interrelated companies and conglomerates.

II. Definition of Terms

For purposes of this Order, the term *"conglomerate"* shall mean a group of corporations that has diversified business activities in varied industries whereby the operations of such businesses are controlled and managed by the management of a parent corporate entity. The term *"affiliate"* is an entity whereby one entity owns less than the majority of the voting stock of the other or when it is a subsidiary of another company. The term "*subsidiary*" refers to an entity that is wholly or partially owned company of a large corporation.

III. Guidelines and Procedures

In carrying out the audit activities pursuant to this Order, the following guidelines and procedures shall be observed:

1. **Submission of Lists**. The Large Taxpayers Service (LTS) and Enforcement Service (ES) shall identify the conglomerates consisting of interrelated companies (parent company, affiliates and subsidiaries) that will be subject for audit under this program. The respective Assistant Commissioners (ACIRS) for the LT-Regular, LT-Excise, and ES shall submit to the Commissioner the list of four (4) big and four (4) small conglomerates.

2. **Identification of the Audit Team**. In recognition of the primary role of the LTS and ES in monitoring and enforcing tax compliance of taxpayers, the LTS (both Regular and Excise), through the examiners from the eight (8) audit divisions under it, and the ES, through the National Investigation Division (NID), shall be assigned to special audit teams to conduct the audit of taxpayers identified above. The audit teams shall be headed by their respective Assistant Commissioners, who in turn, shall report directly to the Commissioner.

   Upon approval by the Commissioner of the list of conglomerates, the LTS shall submit the corresponding list of audit divisions under whose jurisdiction the principal parent company of a conglomerate belongs, and as such, designated as the audit division to

handle the audit of the respective conglomerate. For the LTS, each audit division shall be assigned to audit one (1) big conglomerate and one (1) small conglomerate as identified in paragraph III(1).

However, the Assistant Commissioner concerned, subject to approval of the Commissioner, may assign the audit of a particular conglomerate to another audit division not having jurisdiction over the principal parent company of the conglomerate in order to balance the workload of the audit divisions and promote operational efficiency.

The Assistant Commissioner for the ES shall also submit to the Commissioner the list of particular groups within the NID to handle the audit of conglomerates. For this purpose, Revenue Special Orders shall be issued designating the special audit teams to handle the audit of conglomerates.

The Revenue Officers under each special audit team shall, in turn, be tasked to undertake a simultaneous, joint, and coordinated examination of the books of accounts of the taxpayers belonging to the same group of related companies assigned to their respective audit divisions.

3. **Coverage**. The investigation shall cover all internal revenue taxes for taxable year 2009 only.

4. **Notification**. Upon identification of the taxpayers for audit under this program, the LTS and ES shall inform the Regional Offices having jurisdiction over the concerned taxpayers that they have been authorized to conduct an audit / investigation on the taxpayer. In notifying the Regional Offices concerned, the LTS and ES shall use the pro-forma notification provided in **Annex A** of this Order.

   All Revenue District Officers, through the Regional Directors, shall within fifteen (15) days from receipt of the notification, transmit to the Office of the Commissioner all income, VAT, percentage, withholding and other tax returns of said taxpayers under their respective jurisdictions.

5. **Issuance of Letters of Authority (LAs)**. Letters of Authority (LAs) pertaining to taxpayers identified by the LTS and ES for audit under this program shall be signed by the Commissioner under the LA Monitoring System (LAMS). The LAs shall then be issued and assigned to the audit teams in accordance with the guidelines set in paragraph III(2).

   In the event that an LA has already been issued by the Regional Office, the same shall be considered as automatically invalidated. The investigating unit concerned shall then, upon receipt of the aforesaid notification, forward the entire docket to the LTS or ES, as the case may be, for consolidation.

   Upon issuance of LAs for taxpayers not belonging to the jurisdiction of the LTS and for taxpayers subject to audit / investigation by the ES, the LTS and ES shall notify the concerned taxpayer(s) of the change of jurisdiction for the audit / investigation using a pro-forma "Notice of Change of Jurisdiction" provided in **Annex B** of this Order.

6. **Related–party Audit Procedures and Computer-Assisted Audit Tools and Techniques (CAATTS)**. Verification shall generally follow the audit procedures prescribed in the Audit Manual. In addition, the use of CAATTs for taxpayers with computerized accounting system (CAS) is enjoined. The use of CAATTs as an audit

tool, however, shall be limited to data gathering, summarizing and obtaining discrepancy reports of voluminous business transactions of taxpayers under audit. The resolution and final disposition of all issues raised in the audit proper shall be vested to the investigating division handling the case. Other special procedures peculiar to related-party audit and which are necessary to clearly reflect the true taxable income of controlled entities shall be pursued. As such, workshops and seminars on issues of inter-company transactions and tax avoidance schemes of related entities including lectures from industry champions shall be regularly conducted to enhance the skills of the audit teams.

7. **Conference Letter**. All preliminary findings shall be reviewed by the Assistant Commissioner, or in his absence, by their respective Head Revenue Executive Assistants (HREAs) before any Conference Letter is issued to the taxpayer informing him of the nature of the findings being assessed against him. Conference for interrelated group of taxpayers shall be conducted simultaneously, unless there are justifiable reasons to make it separate.

8. **Assessment Notices (ANs) and Payment Forms**. All Assessment Notices (ANs) shall be signed by the Commissioner. The issuance of ANs for interrelated group of taxpayers shall be conducted simultaneously, unless there are justifiable reasons to make it separate. However, payment forms may be signed by the Assistant Commissioner concerned, or in his absence, by their respective HREA.

9. **Final Reports of Investigation**. Final reports of investigation shall be approved by the Commissioner who shall issue the necessary AN covering deficiency taxes wherever applicable. All ANs remaining unpaid after the due date for payment specified in the AN shall be transmitted for collection to the respective collection units having jurisdiction of the taxpayers within fifteen (15) days from date of delinquency.

10. **Completion Date**. All investigations shall be completed and the reports of investigations submitted not later than six (6) months from the issuance of the LA.

11. **Revenue Audit Memorandum Order (RAMO)**. Within thirty (30) days from the date of completion, each audit team, through their Assistant Commissioners, shall submit to the Commissioner recommended set of guidelines, standards and procedures to be adopted in the audit and tax treatment of related parties and inter-company transactions. It shall include among others:

    a. Identification of tax issues and tax planning schemes of related parties;
    b. Tax treatment for controlled transactions including, but not limited to, transfer pricing, cost-sharing arrangements, inter-company loans and advances, provisions of goods and services, agency and/or resale arrangements, etc; and
    c. Audit procedures, rules and regulations for related party transactions.

12. **Attribution of Collection and Performance**. Collections from the program shall be credited to the Revenue District Offices having jurisdiction over the concerned taxpayers. However, for purposes of Key Performance Indicators measurement, the collections resulting from the audit conducted under this Order shall be attributed / credited as performance of concerned Revenue Officers in the LTS and ES.

IV. REPORTORIAL REQUIREMENTS

1. **Submission of Monthly Progress Reports**. Each audit team, through its respective audit divisions, shall submit to their Assistant Commissioners a progress report not later

than the 5th day of every month until the completion of the project. All progress reports shall be consolidated and summarized by the Assistant Commissioners for inclusion in a monthly report to be submitted to the Commissioner

2. **Report of Project Completion**. A final report of project completion shall be submitted by the Assistant Commissioners to the Commissioner indicating the procedures undertaken, total amount of collection and assessment, the issues identified and recommended audit guidelines and procedures established for related–party audit.

V. Repealing Clause

All other issuances and/or portions thereof that are inconsistent herewith are hereby repealed or amended accordingly.

VI. Effectivity

This order shall take effect immediately.

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