Making the Public Know

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

May 12, 2010

REVENUE MEMORANDUM ORDER No. 45-2010

SUBJECT : Revised guidelines in the requests for the production of the books of accounts and/or other records and documents and in the the issuance of Subpoena Duces Tecum for failure of taxpayers to comply with the requests

TO : All Internal Revenue Officials, Employees and Others Concerned

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I. OBJECTIVE

It is the responsibility of taxpayers to comply with the requests of the Bureau of Internal Revenue for them to produce their books of accounts and/or other records and documents in the course of a tax investigation and/or access to records requests. This order is being issued to prescribe the policies and guidelines in cases where the taxpayer refuses to produce documents or records requested and the issuance of *subpoena duces tecum* (SDT) to compel non-cooperative taxpayers to comply.

II. POLICIES AND PROCEDURES

The following policies and guidelines shall be observed:

1. If the taxpayer, upon receipt of the (1) Letter of Authority (LA) and checklist of presentation of the requirements for the audit, or (2) access to records request , the Revenue Officer (RO) concerned shall send a First Notice, signed by himself and/or his group supervisor, to the taxpayer, after ten (10) calendar days from receipt of the LA and checklist of requirements/ access to records request, demanding the taxpayer to furnish to the RO the requirements previously requested.

2. However, if the taxpayer ignores the First Notice and continues to disregard the demand for the submission of the required documents, a Second and Final Notice, signed by the Head of Office concerned, shall be sent to the taxpayer after ten (10) calendar days from receipt of the First Notice.

3. If, after the taxpayer's receipt of the Second and Final Notice, said taxpayer still refuses to comply with the requirements of the notice, the Head of Officet shall request for the issuance of a subpoena duces tecum (SDT) from the Legal Service (National Office), Legal Division (Regional Office),or any other authorized office, after ten (10) calendar days from receipt of the Second and Final Notice.

4. The Legal Service, Legal Division or any other authorized office shall act on the request for the issuance of SDT within five (5) calendar days from receipt of such request.

5. The RO must serve immediately the SDT to the taxpayer and shall return a served copy of the SDT to the office which issued the same within five (5) calendar days from the issuance thereof.

6. If the taxpayer refuses to comply with the SDT, the concerned BIR legal officeshall perform the following courses of action:

    a. File a criminal case against the taxpayer for violation of Section 5 in relation to Sections 14 and 266 of the National Internal Revenue Code; and/or

    b. Initiate a proceeding to cite the taxpayer for contempt, under Section 3(f), Rule 71 of the Revised Rules of Court.

7. If the taxpayer subsequently requests for the dismissal of the cases filed in court and submits the requested information, the concerned BIR office shall concur with such request for dismissal upon the submission of the requested documents/s and the payment of penalty by the taxpayer of ten thousand pesos (P10,000) for the delayed compliance and violation of pertinent provisions of the revenue regulations.

III. REPEALING CLAUSE

All Orders, memoranda and other revenue issuances which are inconsistent with this Order are hereby revoked or amended accordingly.

IV. EFFECTIVITY

This Order shall take effect immediately.

JOEL L. TAN-TORRES
Commissioner of Internal Revenue

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