REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

BUREAU OF INTERNAL REVENUE
RECORDS MGT. DIVISION
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August 30, 2016

REVENUE MEMORANDUM ORDER NO. 54 - 2016

SUBJECT : Creation of a Special Disciplinary Committee for Purposes of Investigation of Revenue Officers Relative to Questionable Tax Audits and Investigations and Other Matters

TO : All Internal Revenue Officers and Others Concerned

This order is issued to create a Special Disciplinary Committee for the purpose of investigating revenue officers relative to questionable tax audits and investigations.

I. OBJECTIVE

As a matter of law, all internal revenue officers have the duty to ensure that tax laws and rules and regulations of the Bureau of Internal Revenue (BIR) are strictly observed and complied with. This statutory mandate carries with it the authority and responsibility of the Bureau to seriously deal with the "incompetency, delinquency and malfeasance" of revenue officers. Likewise, by express legal authority, the Commissioner of Internal Revenue, as the disciplinary authority, may create a disciplinary board of body to hear and decide administrative cases against erring revenue officials and employees.

This Order establishes a Special Disciplinary Committee for expeditious investigation of revenue officers who failed the test of integrity, competence and efficiency in the performance of their audit functions or conduct of tax investigations, uncovered in the process of implementing Revenue Memorandum Circular (RMC) No. 70-2016 which, in substance, suspended all field audit and investigations of taxpayers and enjoined the issuance of Letters of Authority or written orders to audit taxpayers' internal revenue liabilities.

II. SPECIAL DISCIPLINARY COMMITTEE

A Special Disciplinary Committee (herein after referred to as "Committee") is hereby constituted to investigate/hear the cases of revenue officials and employees who have been asked to submit or have already submitted written explanations regarding what appear to be violations or substantial lapses or departure from existing revenue issuances in the conduct of tax audit or tax investigations, subject of or otherwise referred to in RMC No. 70-2016.

The Committee may likewise investigate/hear other cases of erring revenue officers as may be assigned by the Commissioner.

III. COMMITTEE PROCEEDINGS

The Committee shall have full authority in the conduct and/or management of the investigation, which shall not be bound by technical rules of procedure and evidence ordinarily observed in judicial hearings.

Upon issuance by the Commissioner of the Notice/Memorandum to Explain, the revenue officer or employee concerned shall have 3 days within which to submit a written explanation why no administrative case should be filed against him/her. The latter's failure to submit explanation shall be considered a waiver thereof and preliminary investigation may be completed even without his/her explanation.

If necessary, the concerned revenue officer/employee may be summoned to a conference where the Committee may profound clarificatory and other relevant questions. Within five (5) days from the termination of the preliminary investigation, the Committee shall submit an investigation report with recommendation and complete records to the Commissioner whether a prima facie case exist to warrant the issuance of formal charge based on the written explanation and other evidence or documents/records presented in relation thereto.

After a finding of a prima facie case, the Commissioner shall issue a formal charge against the revenue officer/employee and he shall be required to submit an answer within an inextendible period of five (5) days upon service of the formal charge.

If the revenue officer/employee fails or refuses to file his/her answer to the formal charge within the period provided in the formal charge, he shall be considered to have waived his/her right to submit the same and the case may be decided based on available records.

The answer shall state clearly the complete facts and issues involved in the case, as well as the reasons relied upon for a favorable appreciation and review of the revenue officer's cause and explanation. The revenue officer/employee concerned shall likewise indicate in his/her answer whether or not he/she elects a formal investigation of the charge/s, and opt to be assisted by a counsel of his/her choice. The Committee shall not entertain request for clarification, bill of particulars, motion to dismiss, or motion to quash or motion for reconsideration. If any of these are interposed by the revenue officer/employee, the same shall be considered an answer and shall be evaluated as such.

Immediately after the submission by the revenue officer/employee of his/her answer, a formal investigation/hearing shall be called by the Committee to discuss the facts and issues raised or taken up in the revenue officer's explanation and such documents in possession of the BIR. Formal investigation/hearing shall be held not earlier than five (5) days nor later than (10) days from receipt of the answer or upon expiration of the period to submit answer. The Committee shall not entertain any motion for postponement to delay the proceedings.

After the revenue officer/employee has submitted his/her answer or after the formal investigation/hearing date, as the case may be, the case is deemed submitted for resolution.

Thereafter, the Committee, acting as a collegial body, shall submit its report of investigation, as well as its recommendation, in writing, stating in a clear and concise manner the findings of facts and the applicable law and/or pertinent issuances on which it is based. The report and recommendation shall be submitted for the approval of the Commissioner.

IV. DECISION OF THE COMMISSIONER

The Commissioner shall approve and sign the Committee's recommendation within fifteen (15) days from the receipt thereof unless the Commissioner, upon review, decides otherwise in whole or in part. The aggrieved revenue officer/employee may file a motion for reconsideration of the Commissioner's decision within a period of five (5) days from the receipt of the decision. If denied, the revenue officer may appeal to the appropriate administrative or judicial body or Tribunal within the reglementary period, as may be allowed or under existing rules and regulations issued in pursuance of law.

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Failure to appeal the Commissioner's decision shall render the same final and executory. A second motion for reconsideration shall not be allowed.

V. SECRETARIAT

The Special Disciplinary Committee shall be assisted by a Secretariat to be established in the Performance Evaluation Division under Office of the Commissioner.

The Bureau shall extend all the necessary support as may be required by the Committee in the effective discharge of its functions and responsibilities.

VI. EFFECTIVITY

This Order shall take effect immediately and remain in force unless revoked.

CAESAR R. DULAY
Commissioner of Internal Revenue

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