REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

September 19, 2016

REVENUE MEMORANDUM ORDER NO. 59-2016

SUBJECT : Issue-Based Audit Under the VAT Audit Program

TO : All Internal Revenue Officers and Others Concerned

I. Objectives

1. To increase audit coverage of VAT-registered taxpayers;
2. To introduce issue-based audit as part of the VAT Audit Program (VAP);
3. To facilitate completion and reporting of cases under the VAP; and
4. To prescribe policies for issue-based audits under VAP.

II. Coverage and Selection Criteria

This order shall cover the issue-based audit/investigation of VAT liabilities of VAT taxpayers by the VAT Audit Section in the Assessment Division of Revenue Regional Offices for taxable quarter(s) of 2015 and thereafter. Cases for issue-based audit shall be selected following these criteria:

A. Mandatory Case:

1. Taxpayers with VAT returns reflecting erroneous input tax carry-over (Selection Code: ITCO)

B. Priority Cases:

1. Taxpayers whose VAT compliance is below the established industry benchmarks (Selection Code: BENI)

2. Taxpayers with zero-rated and/or exempt sales due to availment of tax incentives or exemptions (Selection Code: ZEXI)

3. Taxpayers engaged in business where 80%, more or less, of their transactions are on a cash basis and whose purchases of goods and services do not generate substantial amount of input tax, such as restaurants, remittance/payment centers, etc. (Selection Code: CASI)

4. Taxpayers with VATable transactions which were subjected to expanded withholding tax but with no VAT remittance (Based on BIR Form Nos. 2550Q and 1604) (Selection Code: VTXI)

5. Taxpayers who failed to remit/declare VAT due from purchase of services from non-resident aliens (Based on BIR Form Nos. 2550Q and 1600) (Selection Code: NRAI)

6. Taxpayers who fail to declare gross sales/receipts subjected to VAT withholding on purchases of goods/services with waiver of privilege to claim input tax credit [creditable]; (Based on BIR Form Nos. 2550Q and 1600) (Selection Code: VTWI)

7. Taxpayers whose gross sales/receipts per income tax returns are greater than gross sales/receipts declared per VAT returns (Selection Code: GSRI)

8. Taxpayers filing percentage tax returns whose gross sales/receipts exceed the VAT threshold (Selection Code: PERI)

C. Exceptions:

The following VAT returns shall be excluded from the coverage of this Order:

1. Claims for issuance of Tax Credit Certificates/refunds; and

2. VAT returns selected for audit by the National Investigation Division under the Enforcement and Advocacy Service and by the Regional Investigation Division of the Revenue Regional Offices.

III. Policies and Procedures

1. Only Revenue Officers – Assessment (ROs - A) in the VAT Audit Section of the Assessment Division shall be authorized to conduct audit/investigation of VAT returns, whether in principal or assisting capacity.

2. The VAT Audit Section Chief shall identify VAT taxpayers for issue-based audit in accordance with the selection criteria prescribed in this Order for approval of the Regional Director (RD).

3. The Electronic Letter of Authority Monitoring System (eLAMS) or eTIS - CMS, where applicable, shall be used in the request, approval and issuance of eLAs, as well as in updating the status of the same.

4. The Assistant Commissioner – Assessment Service (ACIR – AS) may review and evaluate the approved list, which may be retrieved from the eLAMS or eTIS - CMS, to determine compliance with the guidelines set in selecting the VAT taxpayers for audit and in the assignment of cases. If upon evaluation, it is found out that a violation has been committed, the ACIR-AS thru the Deputy Commissioner-Operations Group (DCIR-OG), may recommend to the Commissioner the cancellation of the eLA and the institution of administrative proceedings against the erring official and/or employee.

5. One (1) eLA shall be issued for each taxable quarter or for two (2) quarters by the RD upon recommendation of the VAT Audit Section Chief thru the Chief, Assessment Division.

6. If an eLA has been issued under the VAP even for one (1) quarter or for two (2) quarters only, and subsequently, the same taxpayer becomes a candidate for regular audit in the Revenue District Office (RDO) based on the selection criteria prescribed in the BIR Audit Program or memorandum order issued for the purpose, the eLA covering the same taxable year for regular audit of the RDO should not include the VAT liability.

7. Each RO in the VAT Audit Section shall be required to conduct issue-based audit on ten (10) out of the maximum workload of thirty (30) cases, not counting the mandatory ITCO cases. Thus, each RO shall be assigned 10 issue-based cases based on the selection criteria prescribed in this Order and 20 regular cases based on the selection criteria identified in RMO No. 20-2012 at a given time, subject to replenishment upon the submission of the report of investigation/closure of each case. However, no RO shall be assigned the maximum workload of 10 issue-based and 20 regular cases if there are other ROs who have not been assigned the same number of cases.

8. All pending cases covered by eLAs, including cases covered by Memorandum of Assignment (cases for reinvestigation) as of the effectivity of this Order shall be counted as part of the initial workload of the RO. Thus, no new case pursuant to this Order shall be assigned to the concerned Revenue Officer until such time that his workload shall fall below the maximum workload.

9. Before the service of the eLA, the RO assigned shall perform audit analysis and prepare an Audit Plan (Annex "A") for each case to provide an audit trail for the scope of the audit and to ensure that the audit activity planned, and books and records to be examined will address the identified risks.

10. The RO shall serve, together with the electronic Letter of Authority (eLA), the Notice for the Presentation/Submission of Documents/Records (Annex "B") with checklist of requirements to the taxpayers. The concerned taxpayer shall be given ten (10) days from receipt of the Notice to present/submit the required documents and records.

    If he/it does not comply with the Notice, a reminder letter (Annex "C") shall be sent immediately after the lapse of the ten-day period before a Subpoena Duces Tecum (SDT) can be recommended for issuance. No further extension for the presentation/submission of documents and records shall be allowed.

11. To facilitate the reporting of VAT audit cases, ROs shall perform only the audit procedures under Revenue Audit Memorandum Order (RAMO) No. 1-99, VAT Audit Manual, and in other revenue issuances applicable to risks identified for case selection and as a result of pre-audit analysis. Likewise, only documentary requirements prescribed in RMO No. 53-98, as amended by RMO Nos. 16-2007, 22-2007 and Revenue Memorandum Circular No. 29-

2009 relating to big ticket items, that are applicable and relevant to the case, shall be attached to the docket.

Nevertheless, the RO is not precluded from applying the relevant policies and procedures of the aforementioned revenue issuances depending on the risks/areas of assessment found.

12. Third Party Information (TPI) available in the National Office shall be utilized in the audit of VAT taxpayers. For expediency, the VAT Audit Section Chief need not prepare the required Request Form. Upon receipt of the List of Selected Taxpayers for VAT Audit with eLAs Issued from the Assessment Division, the AS shall furnish the Audit Information Tax Exemption and Incentives Division (AITEID) with a copy of the said list. Subsequently, the AITEID shall provide the concerned VAT Audit Section of the Assessment Division with the preprocessed RELIEF data within five (5) days from receipt of the list.

    The VAT Audit Section Chief shall submit reports prescribed under existing revenue issuances on the results of the utilization of the preprocessed RELIEF data.

13. Revenue Officers shall finish their cases and submit reports of investigation within sixty (60) and ninety (90) days from the date of issuance of eLAs covering one (1) and two (2) quarters, respectively. If the RO cannot submit the report of investigation within the prescribed audit period, he shall prepare a progress report stating therein the reason for the delay to be noted by the VAT Audit Section Chief who shall furnish a copy thereof to the Regional Director thru the Chief, Assessment Division prior to the lapse of the 60 or 90 day period, as the case may be.

14. Based on the audit findings or violations uncovered during the audit, the VAT Audit Section Chief may recommend surveillance, closure or other enforcement activity on the taxpayer.

    If there are findings on VAT that may impact the income tax aspect, such findings shall be communicated by the Chief, AD to the concerned investigating office. The head of the investigating office is required to submit to the Chief AD a written memorandum as to the action taken on these findings. Thereafter, the Chief AD shall monitor the same during the review of the case.

15. In case there are deficiency VAT liabilities as result of the audit, the issuance of Preliminary Assessment Notice (PAN) and Final Assessment Notice (FAN) will be in accordance with existing revenue issuances. All cases, even those with deficiency taxes agreed to be paid by the taxpayer, should have, at the very least, duly issued PANs.

16. Cases returned to the RO after review for compliance with certain documentary audit requirements or for further conduct of audit to meet some

procedural requirements or for correction of the report and/or PAN shall be considered as an addition to his existing workload upon receipt of the returned case or docket. In case the ROs' inventory exceeded the maximum workload upon receipt of the returned cases, the excess thereon shall not be considered as a violation of this Order. Returned cases requiring compliance with certain review requirements shall be acted upon within fifteen (15) days from the receipt of the docket to ensure the conduct of quality audit and that top priority action shall be given by the concerned RO on these returned cases.

17. Issue-based cases referred to the Legal Division for issuance of SDT, issuance of legal opinion or for filing of criminal action shall be removed from the inventory of the concerned RO for purposes of replenishment of cases. The SDT shall be issued and served in accordance with RMO No. 10-2013, as amended by RMO No. 8-2014.

    However, once the case is returned to the RO for continuation of audit/investigation after rendering the desired resolution/opinion on certain legal issues or after compliance of the taxpayer with the SDT, this shall be considered as part of his inventory or workload. If such returned cases result to an excess over the maximum workload, this situation will not be considered a violation.

18. All reports of investigation shall be submitted by the VAT Audit Section Chief to the Review and Evaluation Section of the Assessment Division for regular review and appropriate recommendation by the Chief, Assessment Division prior to approval by the Regional Director. The Regional Director shall act on these cases within five (5) days from receipt thereof.

19. Dockets on selected paid cases may be subjected to revalida upon instruction of the Commissioner.

20. The AS shall closely monitor the progress of eLA cases issued under the VAP. For this purpose, the concerned office under the AS shall submit a monthly summary report on the results of the VAP not later than the 10th day after the close of each month.

IV. Reporting Requirements

a. The Chief, Assessment Division shall submit to the ACIR – AS the following reports not later than the 10th day of each month:

	Name of Report	Annex
1.	List of Selected Taxpayers for VAT Audit With eLAs Issued	D
2.	Monthly Report on Assessment Notices Issued/ Protested/Cancelled	E
3.	Monthly Report on Cases Collected	F
4.	Monthly Report on Disputed and Collectible Assessments Posted in Form 40	G

5.	Monthly Report on eLAs Issued That Were Cancelled/Transferred to Other Office/Cannot Be Located Taxpayers/Cases With No Discrepancy	H
6.	Monthly Report on Cases Referred to the Legal Division	I

b. The Chiefs of the Legal Division shall submit to the ACIR-AS, a monthly status report of cases (Annex J) not later than the 10th day of the month following the month of receipt of the docket from the VAT Audit Section thru the Chief, Assessment Division.

c. The Chiefs of the Assessment and Legal Divisions shall furnish their concerned Regional Director with a copy of the reports submitted to the ACIR – AS.

Upon the effectivity of this Order, the report format prescribed herein shall be strictly observed by all Regional Assessment Divisions and Legal Divisions.

V. Violations

Any violation of this Order shall be referred by the concerned revenue official to the ACIR – Internal Affairs Service (IAS), Attention: The Chief, Internal Investigation Division (IID) for investigation or the IAS, through the IID, may initiate its own fact-finding revalida on the violation/infraction of revenue officials/officers. In this regard, the ACIR-IAS, through the DCIR-OG, may recommend to the Commissioner the relief, re-assignment, transfer or imposition of administrative sanctions on any revenue official/RO violating any provisions of this Order.

VI. Repealing Clause

All other issuances and/or portions thereof that are inconsistent with this Order are hereby repealed, modified or amended accordingly.

VII. Effectivity

This order shall take effect immediately

(Original Signed)
NESTOR S. VALEROSO
Deputy Commissioner, Operations Group
Officer-in-Charge

I-1