REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

December 3, 2010

REVENUE MEMORANDUM ORDER No. 82-2010

SUBJECT : Criteria and Procedures for Attrition of Officials and Employees of the Bureau of Internal Revenue, including Submission of Required Documents and Reports, Under Republic Act No. 9335, or the *"Attrition Act of 2005"* and its Implementing Rules and Regulations

TO : All Revenue Officials and Employees

I. BACKGROUND:

On 25 January 2005, Congress approved Republic Act (RA) No. 9335, or the *"Attrition Act of 2005"*. The Act took effect on 11 February 2005. Thereafter, or on 22 May 2006, its Implementing Rules and Regulations (IRR) were promulgated, which became effective on 15 June 2006.

RA No. 9335 and its IRR mandate the setting of criteria and procedures for removing from the service Officials and Employees whose revenue collections fall short of the target by at least seven and a half percent (7.5%). The law and the IRR likewise provide for documents and reports to be submitted by the Bureau of Internal Revenue (BIR) either to the Revenue Performance Evaluation Board (RPEB), Development Budget and Coordinating Committee (DBCC), or Congress for the effective implementation of the Act.

II. OBJECTIVE:

This Order prescribes the criteria and procedures for removing from the service Officials and Employees whose revenue collections fall short of the target, and to set forth the duties and responsibilities of Units, Officials and Employees of the BIR in the preparation of the documents and reports required to be submitted either to the RPEB, DBCC, or Congress.

III. POLICIES:

1. The provisions of this Order shall be interpreted in the light of the declared policy of the State to optimize the revenue-generation capability and collection of the BIR by providing for a system of rewards and sanctions with the end view of encouraging its Officials and Employees to exceed their revenue targets.

2. An Official or Employee subject of attrition should have been employed in the BIR for at least six (6) months, regardless of employment status.

3. In determining whether or not an Official or Employee is subject to attrition, it is not the official designation or title of the position that is controlling; rather, it is the actual duties performed. Attritable Officials or Employee are those performing audit, assessment or collection functions or who has a collection target, as reflected in such Official's or Employee's Performance Contract and Revenue Memorandum Order (RMO) issued presenting the goals of concerned BIR offices, Officials and Employees.

4. The separation or removal from the service of the concerned Official or Employee for failing to meet the collection target by at least 7.5% shall be subject to Civil Service laws, rules and regulations. Under Section 21, Rule V of the IRR, the separated Official or Employee shall be deemed dropped from the rolls. Section 2.2, Rule XII of CSC Memorandum Circular (MC) No. 40, s. of 1998,[1] as amended, provides that an Official or Employee who is given two (2) consecutive unsatisfactory rating may be dropped from the rolls after due notice. Notice shall mean that the Officer or Employee concerned is informed in writing of his unsatisfactory performance for a semester and is sufficiently warned that a succeeding unsatisfactory performance shall warrant his separation from the service.

5. Pending the RPEB's approval of a system that rationally allocates revenue targets at the level of Officials and Employees as provided for in Section 6(b), Rule II of the IRR, the basis for evaluating the performance of personnel shall be their individual Performance Contracts, which they shall enter into pursuant to Sections 17 and 33 of the IRR, in relation to Section 7(b) of the Act.

6. Notwithstanding assignment or reassignment, an Official or Employee shall remain to be subject to attrition for as long as he has a collection target and directly performs audit, assessment or collection function. His/her total monthly goals for the position he/she occupied shall be compared with his/her total actual monthly collection, and this shall be used for the purpose of determining his/her performance hereunder.

7. If he/she is transferred, assigned, or re-assigned to non-audit, non-assessment or non-collection function that has no collection target in the middle of the year under consideration and continued until the end of that year, then, he/she shall not be subject to attrition in accordance with Section 18(b), Rule V of the IRR.

8. For purposes of attrition, the determination of the revenue collection performance of an Official or Employee shall include payments using Tax Credit Certificates/Tax Debit Memos and proceeds from sale of real properties forfeited in favor of the Government. These shall not, however, form part of revenue collections performance for purposes of rewards and incentives under Section 4 or Section 5 of the Act.

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[1] Revised Omnibus Rules on Appointment and Other Personnel Actions

IV. PROCEDURES:

1. Allocation and Distribution of Revenue Collection Target

a. The overall collection goal of the BIR shall be based on the revenue target formally communicated by the DBCC to the RPEB.

b. The allocation and distribution of the overall BIR collection goal among the concerned offices, Units, Officials and Employees shall be done by the Commissioner of Internal Revenue, thru the RMO to be issued for each calendar year. The RMO shall be submitted to the DBCC pursuant to Section 4 of the Act and Sections 7(a) and 30(a) of the IRR, and to the RPEB pursuant to Sections 7(b) and 30(b)(ii) of the IRR.

c. Following such allocation and distribution, the concerned Official or Employee shall enter into a Performance Contract, which is deemed signed/accepted upon issuance of the aforesaid RMO and upon his assumption of office or performance of duties in office.

2. List of Personnel Subject to Attrition

a. Without prejudice to the provisions of Section III(3)(6) of this Order, the following shall be subject to attrition for purposes of paragraph (b), Section 7 of the Act and Section 17, Rule V of the IRR:

i.) Regional Director

ii.) Assistant Regional Director

iii.) Revenue District Officer

iv.) Assistant Revenue District Officer

v.) Section Chief, Assessment

vi.) Group Supervisor, Assessment

vii.) Revenue Officer, Assessment

viii.) Section Chief, Collection

ix.) Intelligence Officer (with audit and collection function)

x.) Revenue Officer (Collection Agent/Seizure Agent)

xi.) Other Revenue Officers (with goal)

b. The Assistant Commissioner and Head Revenue Executive Assistants (HREAs) of Large Taxpayers Service (LTS), as well as the following personnel of Large Taxpayers Regular Audit Divisions 1-3 (LTRAD 1-3), Large Taxpayers Excise Audit Divisions 1-2 (LTEAD 1-2) and Large Taxpayers District Office (LTDO) Makati and Cebu, Large Taxpayers Collection and Enforcement Division (LTCED) and Large Taxpayers Field Operation Divisions (LTFOD) shall likewise be subject to attrition:

i.) Division Chief

ii.) Assistant Division Chief

iii.) Section Chief

iv.) Group Supervisor

v.) Revenue Officer, Assessment

vi.) Revenue Officer, Excise (assigned in taxpayer's premises)

vii.) Revenue Officer (Collection Seizure Agent, LTCED)

c. Officials and personnel of other Units in the BIR, not included in the enumeration in the two immediately preceding paragraphs, who were assigned collection targets or goal and who directly perform assessment, audit, or collection functions shall likewise be subject to attrition.

d. Based on the immediately preceding provisions and on Section IV(1) of this Order, the Human Resource Development Service (HRDS) shall prepare the list of personnel subject to attrition and submit the same to the Commissioner not later than the end of February of each year. Once approved by the Commissioner, the list shall be submitted to the Board not later than the end of the first quarter of the fiscal year pursuant to Section 17 and 30(b)(v) of the IRR.

4. Performance Evaluation

a. The basis for evaluating the performance of personnel shall be their individual Performance Contracts. This shall be deemed signed/accepted by the concerned Official or Employee upon issuance of the RMO which will embody the respective goals of Offices or Units to which they are assigned, and upon assumption of offices or performance of duties in said offices.
b. Evaluation shall be done by comparing the approved monthly goal with the monthly actual collection. The approved monthly goals shall be summed up to arrive at the semestral (6 months) and annual (12 months) goals respectively. These shall be compared with the semestral and annual actual collections for the same period under

consideration. In case of shortfall for the first semester, the concerned official or employee shall be notified in writing of such findings and shall require him to explain the reasons and circumstances which led to the shortfall. Such notice shall carry a warning that in case of another shortfall during the second semester of the year under consideration, said official or employee shall be recommended to the RPEB for attrition. For purposes of attrition, the 7.5% shortfall shall be based on the total approved collection goal for the year under consideration versus the total actual collection for the same year.

c. For the Offices, Units, Officials or Employees in the Large Taxpayers Service, performance evaluation, giving of notices to explain in case of a finding of shortfall, and preparation of the Performance Report, including the recommendation thereon, shall be done by the Office of the Commissioner of Internal Revenue (OCIR) or its duly authorized representative. On the other hand, for the Offices, Units, Officials or Employees in the Operations Group and other attritable Officials and personnel, this shall be done by the Office of the Deputy Commissioner for Operations Group (ODCIR-OG).

d. The following relevant factors may be considered in evaluating the performance of Officials or Employees shall include:

    i.) The District or area or responsibility covered by Officials or Employees has suffered from economic difficulties brought about by natural calamities or economic causes as may be determined by the RPEB.

    ii.) Enactment of a law that repeals revenue measures, reduces tax and tariff rates, grants tax exemptions, or otherwise results in the diminution of the tax base or of taxable transactions and activities, including the entry into force of a treaty or an international agreement that the Philippines entered into resulting in preferential treatment for certain taxpayers or transactions.

    iii.) Prolonged illness, hospitalization or medication of the subject Officials or Employees as a result of accidents or calamities, long study leaves and the like.

e. The Performance Report shall contain, among others, the source of the shortfall or surplus, the personnel in-charge of the Unit, the explanation for the shortfall or surplus and the recommendation as to the remedial course of action in cases of shortfall, and in the case of the year-end report, the names of Officers and Employees who are recommended for termination or reward.
f. The Performance Report shall be submitted to the RPEB as well as to Congress pursuant to Section 28, Rule VIII of the IRR. The Report shall be submitted semi-annually with the last report to be annualized.

5. BIR Representation in the RPEB

a. The BIR Employees Association (BIREA) or such other Employees' or Officials' organizations as may be duly recognized by the BIR in the future shall elect the following representatives to RPEB: one (1) Official and two (2) Employees of the BIR. Pursuant to Section 4(h) and (f) of the IRR, an Official is a person who is appointed to and occupies a third level position, while an Employee is a person who is appointed to and occupies either a first and second level position in the BIR.

b. Only Officials may elect the representative of the "Officials Group" to RPEB. In the same manner, only Employees may elect the representatives of the "Employees Group" to RPEB.

V. <u>SANCTIONS</u>

a. Pursuant to Rule V, Section 18 and Rule VII, Section 27 of the IRR, the sanctions are as follows:

Offense	Sanction
Collection performance falls short of the target by at least seven and a half percent (7.5%), with due consideration of all relevant factors affecting the level of collection as provided in the IRR and in this RMO, subject to civil service laws, rules and regulations and compliance with substantive and procedural due process.	Separation from the service by the final decision of the RPEB upon recommendation by the Commissioner of Internal Revenue. Separation from the service, however, shall not apply where the District or area of responsibility is newly-created, not exceeding two years in operation, and has no historical record of collection performance that can be used as basis for evaluation. A District or area of responsibility shall be deemed newly-created when it is established where no District or area of responsibility previously existed, or is carved out of the jurisdiction of an existing District or Districts or of an area or areas of responsibility, or is the result of the merger of two (2) or more Districts or areas of responsibility.
Violation of any provisions of R.A. No. 9335. Guilty of negligence, abuses or acts of malfeasance or misfeasance or failure to	The officials, examiners and employees concerned shall be held liable for any loss or injury suffered by any business establishment

exercise extraordinary diligence in the performance of their duties.	or taxpayer as a result of such violation, negligence, abuse, malfeasance, misfeasance or failure to exercise extraordinary diligence.

b. The power of the RPEB to remove personnel pursuant to Section 7 of the Act shall be without prejudice to the power of the Commissioner of Internal Revenue to discipline the BIR's personnel in accordance with the provisions of Rule IX of the Omnibus Rules Implementing Book V of Executive Order No. 292, as amended, and other Civil Service Laws, rules and regulations as well as to assign or reassign internal revenue officers under Section 16 and 17 of the National Internal Revenue Code.

VI. RIGHT TO APPEAL

a. An official or employee whose employment is terminated by virtue of the decision of the RPEB may appeal to the Civil Service Commission (CSC) or the Office of the President (OP), as the case may be, within fifteen (15) days from receipt of a copy of the decision of the RPEB.

b. For officials who are Presidential appointees, appeal may be filed with the OP. All other officials and employees may appeal with the CSC. Pending appeal, however, the decision of the RPEB shall be immediately executory. Provided, however, that officials and employees affected by the decision may initially file a motion for reconsideration with the RPEB within fifteen (15) days from receipt of such decision.

c. Decisions of the RPEB shall be final and executory after the lapse of the reglementary period for filing a motion for reconsideration or an appeal and no motion or appeal has been filed.

VII. TRANSITORY PROVISIONS

a. For purposes of attrition, pending the RPEB's approval of a system that rationally allocates revenue targets at the level of Officials and Employees as provided for in Section 6(b), Rule II of the IRR, the basis for evaluating the performance of personnel shall be their individual Performance Contracts.

b. Within three (3) months from the issuance of this Order, the Policy and Planning Service (PPS) shall prepare a system for performance evaluation that takes into account the system of rationally allocating revenue targets at the level of individual personnel. Such system shall be reviewed by the Management Committee (MANCOM) and shall be endorsed by the Commissioner to the RPEB for its approval, as required under Section 33 of the IRR.

VIII. REPEALING CLAUSE

All existing revenue memorandum circulars, orders and other issuances inconsistent herewith are hereby repealed, modified or amended accordingly.

IX. EFFECTIVITY

This Order shall take effect immediately.

(Original Signed)
KIM S. JACINTO-HENARES
Commissioner of Internal Revenue