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Republic of the Philippines
DEPARTMENT OF FINANCE
**BUREAU OF INTERNAL REVENUE**
Quezon City

JAN 21 2022
Date

**REVENUE MEMORANDUM ORDER NO. 9-2022**

**SUBJECT : Use of Video Conference Hearing as alternative mode to face-to-face formal investigation/hearing for administrative cases, amendment to RMO 19-2011.**

**TO : All Officials and Employees of the Bureau of Internal Revenue and Others Concerned**

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## I. BACKGROUND

To ensure the continuity in the adjudication process of administrative cases, taking into account the restraint on the movement and travel of revenue personnel, the health risks posed by Covid-19, and local travel restrictions during the different community quarantine status imposed in the different cities and provinces by the National Government, the provisions in the guidelines set forth by the **Supreme Court in A.M. No. 20-12-01-SC *(Re: Proposed Guidelines on the conduct of videoconferencing)*, as practicable in administrative due process, shall be adopted as an alternative mode to in-court proceedings**, in the conduct of formal investigation of administrative cases under the BIR Revised Rules of Procedure in the Investigation/Hearing of Administrative Cases implemented by Revenue Memorandum Order (RMO) No. 19-2011.

## II. POLICIES

1) It should be noted that in-court proceeding is still the primary mode in hearing administrative cases.

2) Administrative due process rights of the respondent are deemed observed when his/her appearance and/or testimony are done remotely through video conferencing under the said guidelines with his/her consent.

3) The conduct of videoconferencing shall closely resemble in-court hearings, with remote locations viewed as extensions of the court room for administrative cases. The dignity and solemnity required in an in-court

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hearing, as well as the rules, and practices on proper court decorum, shall be strictly observed. Perjury laws shall apply.

4) Confidentiality of attorney-client communications shall always be preserved. The parties to the administrative case participating in a videoconference hearing shall be provided with private means of communication whenever necessary.

5) The 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS) of the Civil Service Commission shall continue to be observed, and the Rules of Court suppletorily.

6) Considering that the proceedings in administrative cases is classified as sensitive personal information under the Data Privacy Act of 2012, there is no public access to videoconference hearings. Only the authorized personnel shall be allowed to participate in the administrative hearing/s.

7) The proceedings through videoconferencing shall be recorded by the host, Personnel Adjudication Division. It shall form part of the records of the case, appending thereto relevant electronic documents taken up or issued during the hearing.

## III. PLATFORM

Formal investigation/hearing via video conference shall only use the officially provided Zoom or Microsoft Teams application, to host such hearings or any such application as authorized by the BIR Information Systems Group. The Hearing Officers shall utilize the official e-mail accounts or authorized BIR webmails.

## IV. EQUIPMENT REQUIREMENTS

For purposes of conducting the hearing via video conference, the following requirements should be prepared by the parties:

1) Official Personal Computer / Laptop with the installed application
2) Installed Peripheral (web camera)
3) Headset with microphone
4) Provision of stable internet connection

## V. PRELIMINARY NOTICE OF HOLDING OF HEARINGS

1) The assigned government prosecutor from the Internal Investigation Division (IID) shall coordinate with the PAD on the schedule of hearing

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and submit the list of witnesses and their respective contact details including email addresses to PAD for this purpose.

2) Using the official outlook accounts, the Hearing Officer shall send the parties to the Administrative Case emails:
   a. Informing them of the availability of holding hearings via video conference;
   b. Attach a copy of this Guidelines for Hearings Via Video Conference; and
   c. Asking them to coordinate with the PAD for scheduling of the case.

3) If the respondent will be represented by legal counsel, the respondent should provide the contact details and email address of such counsel.

## VI. NOTICE OF HEARINGS

1) Hearings will be held via the conferencing tool of Microsoft 365, specifically Microsoft Teams.

2) The assigned PAD Hearing Officer shall host the hearings by video conference. For security reasons, the Hearing Officer shall use only their official outlook accounts or authorized webmail to inform parties of scheduled hearings.

3) Notification emails sent by the PAD Hearing Officer shall include:

   a. The time and date of the scheduled hearing
   b. A link to join the hearing
   c. A reminder that all details and information used to gain access to the proceedings shall be treated with strict confidentiality, as any unauthorized sharing of said details shall be dealt with accordingly based on the Data Privacy Act.

4) Proof of receipt of the notification emails shall be properly recorded.

5) Notification email shall also be sent to the Network Management and Technical Support Division (NMTSD) or Help Desk for technical assistance in the event that network issues arise during the proceedings.

## VII. CONDUCT OF HEARINGS

1) The assigned Hearing Officer, as host, shall ensure that the following shall all be present before starting any hearing via video conference:

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a. Government prosecutor (IID Investigating Officer)
b. Respondent or his/her legal counsel
c. Witnesses of the parties

2) The formal investigation / hearing shall be hosted from the Hearing Room at the NTC Building, Ground Floor, BIR National Office, Quezon City.

3) If the witness/es of the government prosecutor are offsite or are in the Regional/District Office, they shall make proper arrangements for the video conference, and the government prosecutor shall ensure that said witness/es to be presented is/are prepared for the video conference hearing.

4) As far as is practical, the above-mentioned persons, shall be visible to all participants at any time during the proceeding, except when a witness is excluded by the Hearing Officer.

5) Hearings held via video conference shall follow the formal investigation procedures laid in the 2017 RACCS and RMO 19-2011.

6) The dignity and solemnity of court proceedings shall be observed at all times. All participants shall be in appropriate attire.

7) When presenting witnesses, the parties may be required to adjust the camera to show full view of the witnesses' surroundings in order to prevent any occurrence of coaching.

8) Proceedings may be suspended by the Hearing Officer if there are technical issues that prove difficult to quickly resolve. The reason/s for such suspension shall be properly recorded. The Hearing Officer shall notify parties of the resumption or next scheduled hearing.

9) At the start of the hearing, the Hearing Officer shall take note of the appearance of the parties. If, after being apprised of the right to counsel, the respondent appears without the aid of a counsel, he/she shall be deemed to have waived the right thereto and this shall be made on record.

## VIII. TECHNICAL SUPPORT

1) The Hearing Officer, as host, shall hold a dry run or preliminary call to which the parties will have no access, before the actual hearing in order to prepare his/her videoconferencing tools and address any initial technical issues that may occur. The representative from the NMTSD shall be present during this call.

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2) The NMTSD is tasked to distribute instructional materials to PAD Hearing Officers, preferably on-line demonstration or presentation on how to use the video conference for hearings.

3) Hearing Officers of PAD are advised to familiarize themselves of the video conference procedures using Microsoft Teams and enlist the support of NMTSD in the conduct of demonstrations.

## IX. RECORDING OF HEARINGS

1) The proceedings of the hearings shall be recorded by the Hearing Officer using the Teams application. The Hearing Officer shall store and file these video recordings and the same shall form part of the records of the case.

2) Unauthorized recording of the proceeding by any party may be considered a breach of violation of under Data Privacy Act, and shall be dealt with accordingly.

3) In the absence of stenographer, the Hearing Officer shall make a summary of the proceedings pursuant to Section 8, Rule VI of RMO 19-2011 and the same shall form part of the records of the case.

4) The case records shall indicate the hearings that were conducted via video conference.

## X. PERTINENT DOCUMENTS

1) Relevant revenue issuance/s related to the conduct of video conference hearing shall be distributed through email to the parties before the scheduled hearings.

2) Submission of documentary evidence by the parties that are to be presented during the scheduled hearings shall be sent to the official Outlook email accounts of the Hearing Officer in scanned PDF files, copy furnished to the other participants via email.

3) All pertinent documents received by the Hearing Officer shall be stored and filed in soft or hard copy and are treated with strict confidentiality.

Henceforth, to ensure faithful compliance and observance of these guidelines, everyone is directed to read and be familiar with its provisions.

All concerned are hereby enjoined to be guided accordingly and give this Order as wide a publicity as possible.

This Order shall take effect immediately.

**CAESAR R. DULAY**
Commissioner of Internal Revenue

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