REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

November 25, 2010

REVENUE REGULATIONS NO. 16-2010

SUBJECT: **Guidelines, Rules & Procedures in the Filing of Confidential Information & the Investigation of Cases Arising Therefrom**

TO : **All Internal Revenue Officers and Others Concerned**

BACKGROUND

With the advent of the Run After Tax Evaders (RATE) Program in 2005, the Bureau of Internal Revenue (BIR) has received an increased number of information from concerned citizens against taxpayers, individual or corporate, who allegedly violated the pertinent provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

Pursuant to Department of Finance (DOF) Regulations No. 1, in relation to Section 282 of the NIRC of 1997, as amended, a qualified Informer shall be rewarded in a sum equivalent to ten percent (10%) of the revenues, surcharges or fees recovered and/or fine or penalty imposed and collected or One Million Pesos (P1,000,000) per case, whichever is lower.

SECTION 1. Objectives.

(a) To provide guidelines, rules and procedure in the filing of Confidential Information for violations of the NIRC of 1997, as amended;

(b) To facilitate the investigation of persons covered by such Confidential Information; and

(c) To delineate the responsibilities of the different BIR offices and units involved in the filing, investigation, disposition of such Confidential Information, and the grant and payment of reward.

SECTION 2. Definition of Terms.

2.1 **Informer**- any qualified person who voluntarily provides definite and sworn information not yet in the possession of the BIR nor of public knowledge, leading to the discovery of frauds upon the internal revenue laws or violations of any provision of the NIRC of 1997, as amended, resulting in

the recovery of revenues, surcharges and fees and/or the conviction of the guilty party and/or the imposition of any fine or penalty.

2.2 **Confidential Information-** refers to the sworn written statement given voluntarily by an Informer. Such statement must definitely state the facts or acts constituting fraud committed by a person or entity denounced to have violated or in violation of the NIRC of 1997, as amended.

2.3 **Relatives within the Sixth (6^{th}) Civil Degree of Consanguinity-** this means the father, mother, children, grandchildren, grandfather, grandmother, brothers, sisters, uncles, aunts, nephews, nieces, first cousins and second cousins of BIR officials and employees or other public officials or employees.

SECTION 3. Disqualifications of Informers for Reward. The following are disqualified to avail of the Informer's Reward:

(a) A BIR official or employee or any other incumbent public official or employee;

(b) Relative within the sixth (6^{th}) civil degree of consanguinity of a BIR official or employee, or other public official or employee; and

(c) Though already retired or otherwise separated from service, BIR officials or employees or other public officials who acquired the information in the course of the performance of their duties during their incumbency.

SECTION 4. Filing of the Informer's Confidential Information.

Confidential Information against the denounced taxpayer shall be under oath and shall be personally executed and filed by the Informer before the Chief, Prosecution Division, BIR National Office on the following violations:

(a) Attempt to Evade or Defeat Tax (Section 254 of the NIRC of 1997, as amended);
(b) Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation (Section 255 of the NIRC, as amended);
(c) Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices or Other Violations (Section 264 of the NIRC of 1997, as amended);
(d) Unlawful Pursuit of Business (Section 258 of the NIRC of 1997, as amended);
(e) Use of multiple Tax Identification Number/s (TINs);

(f) Making False Entries , Records or Reports or Using Falsified or False Accountable Forms (Section 257 of the NIRC, as amended); and
(g) Other violations of the NIRC of 1997.

However, if the estimated liability arising from the alleged violation is less than One Million Pesos (P1,000,000.00), the Confidential Information should be filed before the Chief, Legal Division of the Revenue Region having jurisdiction over the taxpayer being denounced.

The format of the duly sworn Confidential Information shall be in accordance with the sample attached hereto as Annex "A".

SECTION 5. Requisites of a Valid Confidential Information.

Pursuant to Section 282 of the NIRC of 1997, as amended, a Confidential Information shall be treated as valid only if it meets ALL the following requisites:

(a) The Informer is not disqualified as provided under Section 3 of this Order.

Aside from stating his name and address, the Informer's duly sworn Confidential Information shall definitely state that he is not related within the sixth (6^{th}) civil degree of consanguinity to any official or employee of the BIR, or any other public official or employee. Otherwise, his Confidential Information shall be treated as invalid. If the Informer withheld such information in his Confidential Information and as a result of which he was paid the Informer's reward, he shall, upon discovery of such fact, be liable to the penalty of perjury and, in addition, he shall also be required to restitute to the BIR the amount of reward wrongfully obtained, inclusive of the legal interest thereon.

(b) The Informer voluntarily provides sworn information on the tax fraud or violation of the NIRC of 1997, as amended, allegedly committed by the denounced taxpayer.

The facts mentioned in the information constituting the alleged tax evasion or violation of the NIRC of 1997, as amended, must be definite, concise and credible, and not merely a general statement. It must specify: 1) the name & address of the taxpayer committing the violation; 2) taxable period when the fraud or violation was committed; 3) the internal revenue law allegedly violated; 4) the address of witnesses, if any; and 5) other facts pertinent to the violation.

Also, it must be supported by "substantial evidence" or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion, such as the following documents:

1. BIR's Certificate of Registration;
2. Income Tax Returns;
3. Deed of Absolute Sale;
4. License to Operate Business in the Philippines, as issued by the Securities and Exchange Commission (SEC);
5. General Information Sheet (GIS) obtained from the SEC;
6. Audited Financial Statements; and
7. Other relevant documents

The foregoing documents and other "substantial evidence" to be submitted by the Informer must consist of certified true copies. For this purpose, a certified true copy is a copy which is authenticated and signed by the authorized officer of the agency having custody of the original thereof. However, for purposes of evaluation, mere photocopies of documents which are within the custody of the denounced taxpayer (i.e. private records) may be accepted.

If the Informer does not have possession or control of such documents, records, or books but he has knowledge of the person who has the custody, possession or control thereof, or the place where they are kept, he shall state in his sworn information the person who has the possession thereof and/or the location where such documents, records and books are kept.

(c) The said information is not yet in the possession of the BIR.

In the course of the evaluation of the Informer's Confidential Information, the Chief, Prosecution Division or the Chief, Legal Division, as the case may be, shall determine from the records of the BIR whether the information being submitted is already reasonably in the possession of the BIR [e.g. the information offered by the Informer is already available from the BIR's Third Party Information (TPI) System or the same is of public knowledge as when it is already the subject of a newspaper publication or report, television or radio broadcast, etc.], or will reasonably come into the possession of the BIR in the course of its operations.

Unless it is established that the information offered by the Informer is not available from the records of the BIR, the information shall not be treated as valid.

(d) The said information does not refer to a case already pending or previously investigated or examined by the Commissioner of Internal Revenue or any of his deputies, agents or examiners, or by the Secretary of Finance or any of his deputies or agents.

Any information provided in the said Confidential Information, which had already been filed with the Department of Finance and any of its attached agencies, including the BIR, shall not be treated as a valid Confidential Information.

(e) The said information does not refer to or is not exactly similar to a previous information filed by another informer covering the same taxpayer describing the same scheme or information covering the same taxable year or period.

SECTION 6. Processing of the Confidential Information and Documents.

(a) At the National Office.

Upon receipt of the information together with the supporting documents, the Chief, Prosecution Division, shall evaluate the same and shall determine whether it qualifies as a valid Confidential Information pursuant to Section 5 of this Order.

If the information is found to be invalid and insufficient, the Informer, within three (3) days from the receipt of the information, shall be notified of such findings and the information with the supporting documents should be returned to him.

If the information is found to be a valid Confidential Information, the Informer shall execute under oath four (4) copies of his Confidential Information before the Chief, Prosecution Division, and he shall attach one (1) copy of the supporting documents for each copy of the Confidential Information.

All four (4) copies of the Confidential Information with its supporting documents shall be forwarded to the Records Management Division, BIR National Office, for numbering and recording in the Confidential Entry Book provided for the purpose. The individual entries to be made in the Confidential Entry Book shall indicate the date and time the information was received; its Book Entry Number; the name and address of the Informer; name and address of the person denounced; names and addresses of the witnesses, if any; the subject matter of the information; and the list of records, documents and books submitted, if any. All the supporting documents submitted shall be duly identified, marked and sequentially numbered.

The First copy of the numbered Confidential Information and its supporting documents shall be retained by the Records Management Division for filing and reference.

The Second Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Enforcement Service for indorsement to the National Investigation Division (NID) for preliminary investigation and/or audit of the denounced taxpayer.

The Third Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Chief, Prosecution Division, for file and future reference (i.e. for processing of claim for reward).

The Fourth Copy of the numbered Confidential Information duly stamped received by the Records Management Division shall be furnished to the Informer, which shall serve as his identification or evidence that he is the true informer.

(b) At the Revenue Regional Office.

Upon receipt of the information together with the supporting documents, the Chief, Legal Division, shall evaluate the same and shall determine whether it qualifies as a valid Confidential Information pursuant to Section 5 of this Order.

If the information is found to be invalid and insufficient, the Informer, within three (3) days from the receipt of the information, shall be notified of such findings and the information with the supporting documents should be returned to him.

If the information is found to be a valid Confidential Information, the Informer shall execute under oath four (4) copies of his Confidential Information before the Chief, Legal Division, and he shall attach one (1) copy of the supporting documents to each copy of the Confidential Information.

All four (4) copies of the Confidential Information with its supporting documents shall be forwarded to the Records Management Division, BIR National Office, for numbering and recording in the Confidential Entry Book provided for the purpose. The individual entries to be made in the Confidential Entry Book shall indicate the date and time the information was received; its Book Entry Number; the name and address of the Informer; name and address of the person denounced; names and addresses of the witnesses, if any; the subject matter of the information; and the list of records, documents and books submitted, if any. All the supporting documents submitted shall be duly identified, marked and sequentially numbered.

The First copy of the numbered Confidential Information and its supporting documents shall be retained by the Records Management Division for filing and reference.

The Second Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Regional Director of the Revenue Region concerned for transmittal to its Special Investigation Division (SID) for preliminary investigation and/or audit of the denounced taxpayer.

The Third Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Regional Director of the Revenue Region concerned for transmittal to its Legal Division, for filing and reference (i.e. processing of claim for reward).

The Fourth Copy of the numbered Confidential Information duly stamped received by the Records Management Division shall be furnished to

the Informer, which shall serve as his identification or evidence that he is the true informer.

The Records Management Division is responsible in observing strict confidentiality of the contents of the Confidential Information, except as provided in this Order.

SECTION 7. Non-disclosure of the Identity of the Informer

In order to protect the identity of the Informer and accordingly safeguard the strict confidentiality of his information, the name of the Informer or any information appearing in the Second Copy (intended for NID/SID) of the Confidential Information that may possibly lead to the identity of the said Informer, shall be deleted by the Records Management Division. From start until completion of the investigation, the docket of the case shall bear no information on the identity of the Informer.

However, in extremely meritorious cases, wherein there is a need to communicate with the Informer, the Chief, NID or SID, as the case may be, should be given access to the identity or contact details of the Informer.

SECTION 8. Preliminary Investigation.

(a) At the National Office.

For cases covered by a sworn Confidential Information –

Upon receipt of the second copy of the Confidential Information and other documents or evidence duly processed by the Records Management Division, the Chief, NID shall forthwith assign the case to any of his investigators for the conduct of a preliminary investigation to determine whether there exists probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed. The assigned investigator has sixty (60) working days from assignment of the Confidential Information to conduct a preliminary investigation thereon.

If there exists probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed, a report requesting for the issuance of Electronic Letter of Authority (eLA) shall be prepared. The Chief, NID shall submit the report and recommendation on the case to the Assistant Commissioner, Enforcement Service, for review of the Deputy Commissioner, Legal & Inspection Group and for approval by the Commissioner who shall issue the eLA.

In cases where the information is deemed insufficient to establish probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed, the Informer shall immediately be notified, within ten (10) working days from the time the findings was

established, that his denunciation shall be referred, for purposes of regular audit, to the appropriate Revenue Region/District Office which has jurisdiction over the taxpayer concerned. Whenever the Informer fails to substantiate the allegations in his Confidential Information or fails to provide addresses, telephone/cellular numbers, and other means by which he could be contacted, or cannot be reached thereat despite diligent efforts by the NID, the Confidential Information shall be archived.

For cases covered by Denunciation Letters or unsworn complaints –

In cases where the denunciation is sent through electronic or ordinary mail, the Chief, NID, shall assign the same to any of his investigators. The assigned investigator shall have thirty (30) days therefrom to evaluate the same.

Within ten (10) working days from receipt of the corresponding Memo-Assignment from the Chief, NID, the investigator shall send a letter to the Informer acknowledging receipt of the information and advising him to submit additional information or other supporting documents, if necessary.

In cases where the information is deemed insufficient to establish probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed, the Informer shall be notified within ten (10) working days from the time the findings was established, that his information shall be forwarded, for purposes of regular audit, to the appropriate Revenue Region/District Office which has jurisdiction over the taxpayer concerned. Whenever the Informer fails to substantiate the allegations in his denunciation letter or provide addresses, telephone/cellular numbers, and other means by which they could be contacted, or cannot be reached thereat despite diligent efforts by the NID, the information shall be archived.

Should the information and evidence provided be deemed sufficient by the investigator, the Informer shall be invited to appear and execute under oath a sworn Affidavit of Confidential Information before the Chief, Prosecution Division, as required under this Order. The informer shall also be made aware that the duly executed affidavit of Confidential Information is a prerequisite for entitlement to the Informer's Reward. In case the Informer, despite having been so invited, fails to appear and execute the affidavit of information under oath, the NID shall nonetheless pursue the preliminary investigation.

(b) At the Regional Office.

For those cases which are either directly filed with the Revenue Region/District Office or whose investigation had been referred by the Assistant Commissioner, Enforcement Service, the information shall be assigned by the Chief, SID, to any of his investigators for the conduct of a preliminary investigation and determine the existence of probable cause that

tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed. The investigator to whom the information was assigned has sixty (60) working days from receipt thereof to complete the preliminary investigation.

In cases where the information is deemed insufficient to establish probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed, the Informer shall be notified within ten (10) working days from the time the that findings was established, that his information shall be archived.

If there exists probable cause that tax fraud or a violation of any provision of the NIRC of 1997, as amended, was committed, a report shall be submitted by the Chief, SID for the approval by the Regional Director. The report shall be referred by the Regional Director to concerned Revenue District Officer (RDO). The Regional Director shall issue the eLA upon request of the said RDO.

SECTION 9. Confidentiality of Investigation.

Pursuant to Section 270 of the NIRC of 1997, as amended, upon the commencement of the investigation process, the assigned investigators shall not divulge to third parties, including the Informer, any information, data or documents gathered during the investigation process. The investigators may only provide the Informer with update on the status of the investigation.

SECTION 10. Reporting of Dockets/Cases covered by Confidential Information.

The NID or SID, as the case may be, shall prepare a report which contains the legal and factual basis for the entitlement of the Informer's Reward. Such report, together with the docket of the case, shall be forwarded to the Prosecution Division of the National Office or Legal Division of the Revenue Region, as the case may be, for evaluation. The NID or SID may render a partial report for payment of Informer's Reward on undisputed issues of the case which clearly refers to the information contained in the Confidential Information. The NID or SID shall attach a certification from the Revenue Accounting Division confirming that payment has already been made by the denounced taxpayer.

SECTION 11. Entitlement of an Informer to a Reward.

In order for an Informer to be entitled to a reward, the Confidential Information given must lead to or be instrumental in the discovery of the fraud or violation of the provisions of the NIRC of 1997, as amended, or special laws being administered by the BIR, and the same must result in the actual recovery or collection of revenues, surcharges and fees, and/or the conviction

of the guilty party or parties, and/or the imposition of any fine or penalty or the actual collection of a compromise amount, in case of amicable settlement.

Where there are two (2) or more Informers in the same case, the one who gave the information in full satisfaction of the conditions herein outlined shall be entitled to the reward.

In the event that each Informer meets all conditions fully, the Informer who first furnished the information shall be entitled to the reward.

In case two (2) or more persons jointly filed the Confidential Information who are qualified for the reward, they shall divide the reward equally among themselves.

SECTION 12. Amount of Reward to the Informer.

The Informer's reward shall be equivalent to ten percent (10%) of the taxes and penalties (or compromise amount, in case of compromise settlement) actually collected as a result of the Confidential Information, or One Million Pesos (P1,000,000.00) per case, whichever is lower, pursuant to Section 282 of the NIRC of 1997, as amended.

SECTION 13. Assessment involving a criminal fraud shall not be compromised.

Taxes assessed as a result of a valid Confidential Information, if involving a commission of criminal fraud established beyond reasonable doubt, shall not be compromised pursuant to the provisions of Section 204 of the NIRC of 1997, as amended.

SECTION 14. Exclusion from administrative programs that gives "last priority in audit or investigation" and other benefits.

Unless otherwise provided by relevant revenue issuances, taxpayers subject of a valid Confidential Information shall be excluded from the coverage of any administrative program of the Bureau promulgated to facilitate and enhance revenue collection (i.e. VAP, VAAP, CTRP, etc.). Consequently, taxpayers who availed of such programs are not entitled to the privilege of "last priority in audit or investigation" or any other benefit to be accorded therein.

SECTION 15. Procedure for Follow-ups by Informers.

On or before the tenth (10^{th}) day of each month following receipt by the NID/SID of the denunciation or information, a letter advising the Informer about the status of his Confidential Information shall be sent by the concerned

office. Pursuant to Section 270 of the NIRC of 1997, as amended, informers may only be told about the current status of their denunciation or information, but not the specific actions taken or to be taken thereon, any information, data or documents gathered against the subject taxpayer.

To ensure confidentiality, any follow-up or request for update of status by Informers shall be made ***in writing*** by indicating the Informer's Name and C.I. No. that appear in the confidential information or Memo Assignment Order No. (for unsworn confidential information). Follow-ups or requests for status updates which do not indicate the foregoing information or those made through telephone or those made personally or those made beyond three (3) years from the filing date of the Confidential Information shall not be entertained.

All valid written follow-ups or requests of Informers shall be acted upon by the assigned investigator within ten (10) working days from the date of receipt. For this purpose, the assigned investigator shall submit a Memorandum Report and a draft letter to the Informer addressing the concerns and issues being raised by the latter. The signatory for Memorandum Report shall be the Supervisor of the concerned NID/SID group. If the NID/ SID Chief finds the Memorandum Report in order, he shall sign the draft letter addressed to the Informer.

SECTION 16. Claims for Informer's Reward.

The Informer's Claim for Reward shall be filed with the Prosecution Division at the BIR National Office or with the Legal Division, Revenue Regional Office, as the case may be.

Claims for rewards shall be filed within three (3) years from the date of actual payment, recovery or collection of revenues, surcharges and fees, and/or the imposition of any fine or penalty or the actual collection of a compromise amount, in case of amicable settlement.

Claims for Reward on cases investigated at the NID

1. The Informer/Claimant shall file his claim for reward at the Prosecution Division, National Office.

2. The Chief, Prosecution Division, shall evaluate the claim and determine whether the Informer is entitled to a reward as detailed in this Order.

3. After evaluation, the Chief, Prosecution Division, shall forward his recommendation of approval/denial of the claim, to the Assistant Commissioner, Enforcement Service.

4. After the review by the Assistant Commissioner, Enforcement Service, the recommendation of approval/denial shall be forwarded to the Deputy Commissioner, Legal and Inspection Group.

5. After the review by the Deputy Commissioner, Legal and Inspection Group, the recommendation of approval/denial shall be forwarded to the Commissioner of Internal Revenue.

6. Should the Commissioner of Internal Revenue find the claim meritorious, the same shall be forwarded to the Secretary of Finance for final approval. Otherwise, the Commissioner of Internal Revenue shall notify the Claimant/Informer of the denial of the claim.

Claims for Reward on cases investigated at the SID, Revenue Region

1. The Informer/Claimant shall file his claim for reward at the Legal Division of the concerned Revenue Regional Office.

2. The Chief, Legal Division, shall evaluate the claim and determine whether the Informer is entitled to a reward as detailed in this Order.

3. After evaluation, the Chief, Legal Division, shall forward his recommendation of approval/denial, to the Regional Director.

4. After the review by the Regional Director, the recommendation of approval/denial shall be forwarded to the Deputy Commissioner, Legal and Inspection Group.

5. After the review by the Deputy Commissioner, Legal and Inspection Group, the recommendation of approval/denial shall be forwarded to the Commissioner of Internal Revenue.

6. Should the Commissioner of Internal Revenue find merit on the claim, the same shall be forwarded to the Secretary of Finance for final approval. Otherwise, the Commissioner of Internal Revenue shall notify the Claimant/Informer of the denial of the claim.

SECTION 17. Payment of Informer's reward.

Upon receipt of the approval from the Secretary of Finance for the payment of the claim for Informer's Reward, a Disbursement Voucher (DV) together with the supporting documents shall be prepared by the Enforcement Service and shall be forwarded to the Accounting Division for processing of the Claim, subject to budgeting, accounting, auditing and other pertinent rules and regulations.

After processing the DV and its supporting documents, the Accounting Division shall forward the same to the Financial Services for approval of payment.

After approval of Payment, the Financial Services shall forward the documents to the General Services Division for the preparation of the check,

subject to existing Revenue Delegation Authority Order and other pertinent rules and regulations.

SECTION 18. Final withholding tax on Informer's Reward.

The Informer's Reward herein provided shall be subject to income tax, collected as a final withholding tax, at the rate of ten percent (10%), pursuant to Section 282 of the NIRC of 1997, as amended. The tax shall be withheld by the Accounting Division and shall be remitted to the BIR in the manner provided by law.

SECTION 19. Repealing Clause.

All existing issuance or portions thereof which are inconsistent herewith are hereby repealed.

SECTION 20. Effectivity.

This Revenue Regulations shall take effect immediately.

(Original Signed)
CESAR V. PURISIMA
Secretary of Finance

Recommended by:

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