

**REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE**

March 17, 2003

REVENUE MEMORANDUM CIRCULAR NO. 13-2003

**SUBJECT : Termination of Audit/Investigation of Tax Returns in the Light of
the Pronouncement of the President last January 20, 2003**

TO : All Revenue Officials, Revenue Officers and Others Concerned

I. OBJECTIVE – This Circular is issued in order to clarify the pronouncement of Her Excellency, President Gloria Macapagal-Arroyo, in one of her recent speeches about the termination of BIR audits and investigations through letters of authority.

II. PREMISES - Section 6(A) of the Tax Code of 1997 provides that “After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax. . . .” Section 10 of the same Code also provides that “Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional Director shall, within the region and district offices under his jurisdiction, among others: . . . (c) Issue Letters of Authority for examination of taxpayers within the region.” Sections 58(E), 94, 95, and 97 of the Code prohibit the transfer of titles of real property sold or disposed of for a valuable consideration or through succession or gratuitous title unless the corresponding capital gains tax or creditable withholding tax, documentary stamp tax, estate tax, and/or donor’s tax has been first duly determined, assessed and collected by the BIR. Likewise, Sections 76, 112, 130(4)(D) and 204(C) provide for the credit and/or refund of excess income tax, input VAT attributable to zero-rated sales and purchase of capital goods, excise tax paid on certain export items and erroneously or illegally received taxes, respectively. Consistent with the ruling in the case of San Carlos Milling Co., Inc. vs. Commissioner of Internal Revenue and Court of Appeals (GR No. 103379 dated November 23, 1993), no tax refund or credit shall be granted unless the taxpayer-claimants’ entitlement thereto has been first duly established through prior audit or investigation.

III. POLICIES - Considering the necessity of conducting audits and verifications as mentioned above, the following guidelines shall be strictly observed:

1. No new Letters of Authority/Audit Notices, Tax Verification Notices, Mission Orders, or any written orders by the Regional Directors or any other Bureau official to audit and/or investigate internal revenue taxes shall be issued, except in the following cases:
 - a. Claims for tax refund or issuance of tax credit certificate or in cases of income tax returns showing carry-over of excess withholding tax or quarterly income tax payments, which will require the audit/verification of all internal revenue tax liabilities for the covered period;
 - b. VAT returns showing excess input tax at the end of the taxable period, which will require the specific audit/verification of the VAT liabilities only for the covered period;
 - c. Estate tax returns, donor's tax returns, capital gains tax returns/expanded withholding tax returns and documentary stamp tax returns unless no LA/AN/TVN is required before verification can be made of such returns pursuant to the provisions or rules prescribed in the RMO on one-time transactions (ONETT);
 - d. Request for tax clearance of taxpayers due to retirement/cessation of business which will require the audit/verification of all internal revenue tax liabilities for the immediately preceding year and the year of retirement of the taxpayer pursuant to Section 52 of the Code;
 - e. Request for tax clearance of taxpayers undergoing merger/consolidation/split-up/spin-off and other types of corporate reorganizations which will require the audit/verification of all internal revenue tax liabilities for the immediately preceding year and the year of retirement of the taxpayer, specifically, those whose juridical personality will cease; and
 - f. Other cases as may be directed and approved by the Commissioner.
2. Letters of Authority/Audit Notices for the above exceptions shall be issued by the Regional Director unless otherwise directed by the Commissioner. It is reiterated however, that, TVNs shall continue to be signed by the Revenue District Officer in the following instances:
 - a. Claims for tax refund/credit involving VAT and income tax where the amount claimed is P=100,000.00 and below;
 - b. Claims for tax credit/refund of excise tax under Title VI of the NIRC, regardless of the amount;

- c. Claims for tax credit/refund on erroneous/double payment of taxes, regardless of the amount;
 - d. Taxpayers who are retiring from business with gross assets of P=10,000,000.00 and below; and
 - e. Protested cases/cases for reinvestigation.
3. All audit/investigation of internal revenue taxes for the taxable year 2001 and prior years shall be terminated and reported on or before May 31, 2003. The dockets of all audit/investigation cases which are outstanding as of the above date shall be returned/surrendered to the Office of the Regional Director with a memorandum explaining why the audit was not finished. Nonetheless, cases where preliminary/final assessment notices were already issued shall still be acted upon based on existing policies and procedures.
4. Any violation of the foregoing instructions by any revenue officer or official shall be a ground for the imposition of appropriate administrative sanctions/penalties.

This issuance does not include cases under the jurisdiction of the Large Taxpayers Service, Tax Fraud Division of the Enforcement Service and Special Task Forces, which shall be covered by a separate instruction.

This Circular which takes effect immediately shall be given as wide a publicity as possible.

(Original Signed)
GUILLERMO L. PARAYNO, JR.
Commissioner of Internal Revenue