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Divulgence of tax information

The confidentiality in nature of deposits with banks and banking institutions had again become one of the hot topics in both the mainstream and social media. In essence, our existing law makes unlawful for any official or employee of a banking institution to disclose to any person any information concerning their clients' deposit. We will not, however, discuss that further, since this column does not cover those types of discussions.

In taxation, although not exactly similar as the bank-secrecy law, there is also a prohibition from divulgence of information. As if a coincidence, the Bureau of Internal Revenue (BIR) issued last week a revenue memorandum circular (RMC 50-2016), reminding its officials and employees that the unauthorized disclosure or divulgence of official or confidential information is criminally and administratively punishable by law and existing revenue issuances. According to the circular, the divulgence of confidential information does not only erode the confidence of the taxpaying public in the reliability and ability of the bureau to safeguard the secrecy of the information, but also puts life and safety in danger. The circular serves as a warning to revenue

officials and employees that they will be held criminally and administratively liable if they violate the law.

There is, indeed, a provision in the Tax Code (Section 270) making it unlawful for any officer or employee of the BIR who divulges to any person or makes known in any other manner than as may be provided by law information regarding the business, income, or estate of any taxpayer, the secrets, operation, style or work, or apparatus of any manufacturer or producer, or confidential information regarding the business of any taxpayer, knowledge of which was acquired by the office or employee in the discharge of his official duties. As stated in some rulings (BIR Ruling 211-15), the intent is to protect taxpayers from having their otherwise sensitive and private information unnecessarily revealed to other parties.

Based on this rule, any employee of the bureau cannot simply disclose any information regarding a taxpayer or taxpayer's business. It follows that any person outside the bureau should not expect to obtain information from the bureau as he pleases, if his request will fall under the "unlawful divulgence" rule. There are, in fact, a number of requests that were denied by the bureau on the basis of this "unlawful divulgence rule."

Like the bank-secrecy law, there are, of course, exceptions to this rule, which are: (1) inspection of income- tax returns upon the order of the President of the Philippines under Section 71 of the Tax Code; (2) disclosure of income tax returns under Section 26 of Republic Act 6388 in case of an individual who files a certificate of candidacy and executes a waiver for the examination of his returns; and (3) information given pursuant to a request by a foreign tax authority through the exchange of information.

Other than these exceptions, any information, whether voluntarily provided to the bureau or acquired by it in the exercise of its functions, cannot be divulged. The person concerned can oppose any attempt to do so. If an unauthorized disclosure is made, the person who does so can be dealt with criminally and administratively.

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