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Streamlining application for CAR

One of the first actions of the new commissioner of internal revenue was to revoke Revenue Memorandum Order (RMO) 24-2016 and 25-2016, issued by the previous commissioner a few days before she stepped down from office. Said memorandum orders were supposed to provide guidelines and procedures relative to the investigation of parties in transactions involving the transfer/assignment/sale of properties.

The revocation is just and proper. Aside from the evaluation of the sale, transfer or assignment of properties subject of an application for Certificate Authorizing Registration (CAR) for the correctness of the taxes paid on the transaction, both the parties to the transaction may possibly be subjected to audit and investigation for other taxes, other than for the taxes due on such sale, transfer or assignment.

The revocation is also in line with the directive of the president to all department secretaries and the heads of agencies to reduce requirements and the processing time of all applications, from the submission to the release. It is noted that one of the requirements for the transfer of some types of properties, such as land and shares of stock, is the CAR required to be obtained from the Bureau of Internal Revenue (BIR). The CAR has to be issued for the title of the property to be issued/registered in the name of the buyer/transferee. Thus, the interested party has to undergo the process of application and release of the CAR by the BIR.

RMO 15-2003 and other related issuances mandate a short processing time for applications for CAR. This is not, however, often followed. Sometimes it takes months, and even years, for a CAR to be issued. This could have been made worse had RMOs 24-2016 and 25-2016 remained effective because of their additional requirements.

Other than the revocation of RMOs 24-2016 and 25-2016, the current BIR officials should also look into the possible changes or amendments of earlier issuances. In cases of shares of stock not listed and traded in the local exchanges, for example, it had always been the rule that the book value of the shares of stock as shown in the financial statements duly certified by an independent certified public accountant nearest to the date of sale shall be considered the fair market value (FMV). From a mere reference to the financial statements, the FMV of the shares could easily be determined and compared to the selling price.

This was changed in 2013 through Revenue Regulations 6-2013. The change introduced the concept that in determining the value of the shares, the adjusted net asset method shall be used, whereby all assets and liabilities are adjusted to FMVs. The net of adjusted asset minus the liability values is the indicated value of the equity. This requires the restatement of all underlying assets and liabilities to their FMVs, such that if the assets and liabilities are not stated at their FMVs, adjustments should be made. In this regard, if there are real properties involved, the appraised values at the time of sale shall be used, which is the higher of: (1) the FMV as determined by the commissioner, or (2) the FMV as shown in the schedule of valued fixed by the provincial and city assessors, or (3) the FMV as determined by an independent appraiser. This necessarily requires the appraisal by an independent appraiser to complete the requirement.

These rules had unnecessarily increased the procedures required from taxpayers for the CAR applications. And not only that—some taxpayers were discouraged from pursuing their transactions because of the difficulty in complying with the requirement. This is especially true with respect to holders of small number of shares who may not have the capacity to require the corporation to conduct the required appraisal of their properties. And the more that these type of transactions are suppressed, the lesser are the transaction taxes that should accrue to the government.

These are just some of the concerns that the new BIR officials should consider, to be consistent with their mandate to shorten the processing time for all applications required to be processed by the office. As they say, tax rules should follow business, and not the other way around.

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