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TAX LAW FOR BUSINESS

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Lifting of audit suspension

Immediately upon assuming office, the new commissioner of internal revenue issued a circular suspending all field audit and other field operations of the revenue agency relative to the examinations and verifications of taxpayers' books of accounts, records and other transactions.

As a result of the suspension of field audit, field operations and other forms of business visitations, the implementation of previously issued Letters of Authority (LOA)/Audit Notices, Letter Notices, or Mission Orders was temporarily stalled. Issuance of new orders for audit of taxpayers was, likewise, halted, with the exception of the investigation of cases prescribing on or before October 31, 2016; processing and verification of estate-tax returns, donor's tax returns, capital-gains tax returns and withholding-tax returns on the sale of real properties or shares of stocks, together with the documentary stamp-tax returns; examination and/or verification of internal-revenue tax liabilities of retiring businesses; audit of national government agencies, local government units and government-owned and -controlled corporation, including subsidiaries and affiliates; and other matters or concerns where deadlines have been imposed or under the orders of the commissioner himself.

A few days after the issuance of the suspension, the commissioner issued another circular providing clarifications relative to the suspension of audit. Among the clarifications pertained to the exception for the prescribing cases. The circular explained that considering the different periods for the filing of various tax returns, the reckoning for the counting of the prescription period shall also be different for each type of tax. The withholding taxes, with the three-year prescriptive period, shall be counted from the date required for the filing of the monthly return, while the value-added tax shall prescribe based on the filing date of the quarterly return. As for the income tax, the prescriptive period shall be counted from the required filing date of the annual income-tax return. Thus, the investigation and audit of cases under LOAs covering all internal-revenue taxes for taxable year of 2013 and prior years were suspended.

The suspension provided a hiatus in the inconveniences and additional burden experienced by taxpayers during tax examinations. That break, however, did not last that long.

Revenue Memorandum Circular (RMC) 89-2016 lifted the suspension of the implementation of LOAs pertaining to the Run After Tax Evader (RATE) Program. The field audits, field operations, and all forms of business visitations and activities connected directly in the implementation of examination orders pertaining to RATE cases resumed.

This was followed by the issuance of RMC 91-2016, wherein the suspension of the field audit and other field operations of the Bureau of Internal Revenue (BIR) for the examination of taxpayer's books of accounts and other transactions was lifted. This means that the field audits, field operations and any form of business visitation pursuant to issued written authority, in any of its forms, will again be conducted.

With the lifting of the suspension of audit of taxpayers for possible tax liabilities, it is expected that the audit processes will come into full swing. These forms of enforcement activities are, indeed, needed for the effective administration of tax laws and the collection of the rightful taxes due to the government. However, the new administration may also consider other avenues for increasing tax collections and focus its resources on those other avenues, other than the usual conduct of tax examinations. The traditional targets of examinations are the same taxpayers who are already in the BIR's database and who are regularly complying with their tax obligations. And percentage-wise, the contribution from these enforcement activities is not substantive. Mostly, the errors committed by these types of taxpayers are not deliberate but, by reason of unclear substantive and difficulty in procedural compliance, rules. Give these taxpayers clear rules and ease the difficulty in compliance requirements, and they will follow.

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