



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

May 28, 2010

REVENUE MEMORANDUM CIRCULAR NO. 43-2010

SUBJECT: Circularizing the Full Text of the Memorandum of Agreement between the Bureau of Internal Revenue and the Office of the Ombudsman

TO: All Internal Revenue Officials, Employees and Others Concerned

For the information and guidance of all internal revenue officials, employees and others concerned, quoted hereunder is the full text of the Memorandum of Agreement (MOA) between the Bureau of Internal Revenue (BIR) and the Office of the Ombudsman signed on May 26, 2010 at the BIR National Training Center Auditorium, BIR, National Office, Diliman, Quezon City. The MOA was executed to establish the policies for the exchange of information between the two agencies.

"MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

This Agreement entered into and executed this 26th day of May, 2010, in Quezon City, Philippines, by and between:

The **BUREAU OF INTERNAL REVENUE**, with office at BIR Road, Diliman, Quezon City, represented herein by its Commissioner, **JOEL L. TAN-TORRES**, hereinafter referred to as the **BIR**;

~ and ~

The **OFFICE OF THE OMBUDSMAN**, with office at the Ombudsman Building, Agham Road, North Triangle, Diliman, Quezon City, represented by the Ombudsman, **MA. MERCEDITAS NAVARRO-GUTIERREZ**, hereinafter referred to as the **OMBUDSMAN**.

WITNESSETH

WHEREAS, the BIR is mandated by law to assess and collect all national internal revenue taxes, fees and charges, and to enforce all forfeitures, penalties and fines connected therewith;

WHEREAS, pursuant to Sec. 270 of the National Internal Revenue Code (NIRC), an officer or employee of the Bureau of Internal Revenue cannot divulge information concerning 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.

WHEREAS, Section 71 of the NIRC empowers the President of the Philippines to allow the production and inspection of Income Tax Returns (ITRs) filed with the BIR.

WHEREAS, the BIR is also mandated to investigate criminal violations of the NIRC.

WHEREAS, Executive Order 251 was issued by the President of the Philippines to require the BIR to furnish the Office of the Ombudsman with certified copies of ITRs filed.

WHEREAS, the Ombudsman is mandated by law to investigate and prosecute *motu proprio*, or upon complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.

WHEREAS, in connection with the said mandate, the Ombudsman may request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.

WHEREAS, the Ombudsman, in the course of its investigation, may encounter cases that may involve incidences of tax evasion.

WHEREAS, this Memorandum of Agreement is entered into by the Parties to agree on the general policies and guidelines as regards the requests and exchanges of vital information between both offices.

NOW THEREFORE, for and in consideration of the above premises, and their mutual covenants hereinafter set forth, the Parties hereto agree, as they have agreed on the following:

I. Responsibilities of the BIR:

1. All concerned BIR Offices shall, upon a duly-issued request by the Office of the Ombudsman, promptly furnish the latter with certified copies of the ITRs of persons, natural and/or juridical, named in said request and for the years specified therein; and
2. The BIR shall utilize the information provided by the Office of the Ombudsman and shall likewise investigate and determine whether the taxpayers in the cases referred to have paid the correct amount of taxes, and if they may be subject to sanctions provided under the NIRC, and, if warranted, the filing of criminal cases for tax fraud / tax evasion.

II. Responsibilities of the OMBUDSMAN:

1. The Ombudsman shall request certified copies of ITRs from the concerned BIR Offices, pursuant to the conduct of the investigation of public officials for graft and corruption, plunder or accumulation of ill-gotten wealth;
2. The Ombudsman shall ascertain that the ITRs furnished by the BIR shall remain confidential, and shall be used solely in connection with its investigation for the aforesaid cases;
3. The Ombudsman shall ensure that the information it shall obtain from the ITRs provided by the BIR shall not, under any circumstances, be released to the public, except insofar as the said information forms part of any order, resolution or decision it shall render in the cases for which such information was requested; and,
4. In the event that, in the course of an investigation, evidence of tax fraud / tax evasion is committed by persons, natural or juridical, not a public official or employees, the Ombudsman shall indorse the case to the BIR for purpose of conducting its own investigation.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signature on the date and place herein abovementioned.

For the Bureau of Internal Revenue

(Original Signed)
JOEL L. TAN-TORRES
Commissioner of Internal Revenue

For the Office of the Ombudsman

(Original Signed)
ORLANDO C. CASIMIRO
Overall Deputy Ombudsman
For
MA. MERCEDITAS NAVARRO-GUTIERREZ
Ombudsman

WITNESSES:

(Original Signed)
GREGORIO V. CABANTAC
Deputy Commissioner
Legal and Inspection Group

(Original Signed)
WENDELL BARRERAS-SULIT
Special Prosecutor
Office of the Ombudsman"

All concerned are hereby enjoined to be guided accordingly and to give this circular as wide a publicity as possible.

(Original Signed)
JOEL L. TAN-TORRES
Commissioner of Internal Revenue