

**[BIR REVENUE REGULATIONS NO. 16-2010,
November 25, 2010]**

**GUIDELINES, RULES AND PROCEDURES IN THE FILING OF
CONFIDENTIAL INFORMATION AND THE INVESTIGATION OF
CASES ARISING THEREFROM**

BACKGROUND

With the advent of the Run After Tax Evaders (RATE) Program in 2005, the Bureau of Internal Revenue (BIR) has received an increased number of information from concerned citizens against taxpayers, individual or corporate, who allegedly violated the pertinent provisions of the National Internal Revenue Code (NIRC) of 1997, as amended.

Pursuant to Department of Finance (DOF) Regulations No. 1, in relation to Section 282 of the NIRC of 1997, as amended, a qualified informer shall be rewarded in a sum equivalent to ten percent (10%) of the revenues, surcharges or fees recovered and/or fine or penalty imposed and collected or One Million Pesos (P1,000,000) per case, whichever is lower.

SECTION 1. Objectives.

- a. To provide guidelines, rules and procedure in the filing of Confidential Information for violations of the NIRC of 1997, as amended.
- b. To facilitate the investigation of persons covered by such Confidential Information; and
- c. To delineate the responsibilities of the different BIR Offices and units involved in the filing, investigation, disposition of such Confidential Information, and the grant and payment of reward.

SECTION 2. Definition of Terms –

2.1 Informer – any qualified person who voluntarily provides definite and sworn information not yet in the possession of the BIR nor of public knowledge, leading to the discovery of frauds upon the internal revenue laws or violations of any provision of the NIRC of 1997, as amended, resulting in the recovery of revenues, surcharges and fees and/or the conviction of the guilty party and/ or the imposition of any fine or penalty.

2.2 Confidential Information – refers to the sworn written statement

given voluntarily by an informer. Such statement must definitely state the facts or acts constituting fraud committed by a person or entity denounced to have violated or in violation of the NIRC of 1997, as amended.

2.3 Relatives within the Sixth (6th) Civil Degree of Consanguinity - this means the father, mother, children, grandchildren, grandfather, grandmother, brothers, sisters, uncles, aunts, nephews, nieces, first cousins and second cousins of BIR officials and employees or other public officials or employees.

SECTION 3. Disqualifications of Informers for Reward - The following are disqualified to avail of the informer's reward.

- a. A BIR official or employee or any other incumbent public official or employee;
- b. Relative within the sixth (6th) civil degree of consanguinity of a BIR official or employee, or other public official or employee; and
- c. Though already retired or otherwise separated from service, BIR officials or employees or other public officials who acquired the information in the course of the performance of their duties during their incumbency.

SECTION 4. Filing of the Informer's Confidential Information - Confidential information against the denounced taxpayer shall be under oath and shall be personally executed and filed by the Informer before the Chief, Prosecution Division, BIR National Office on the following violations:

- a. Attempt to Evade or Defeat Tax (Section 254 of the NIRC of 1997, as amended);
- b. Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation (Section 255 of the NIRC, as amended);
- c. Failure or Refusal to Issue Receipts or Sales or Commercial Invoices, Violations Related to the Printing of such Receipts or Invoices or Other Violations (Section 264 of the NIRC of 1997, as amended.);
- d. Unlawful Pursuit of Business (Section 258 of the NIRC of 1997, as amended);
- e. Use of multiple Tax Identification Number/s (TINs);
- f. Making False Entries, Records or Reports or Using Falsified or False Accountable Forms (Section 257 of the NIRC, as amended); and

g. Other violations of the NIRC of 1997.

However, if the estimated basic tax liability arising from the alleged violation is less than One Million Pesos (P1,000,000.00), the Confidential Information should be filed before the Chief, Legal Division of the Revenue Region having jurisdiction over the taxpayer being denounced.

The format of the duly sworn Confidential Information shall be in accordance with the sample attached hereto as Annex "A"*.

SECTION 5. Requisites of a Valid Confidential Information – Pursuant to Section 282 of the NIRC of 1997, as amended, a Confidential Information shall be treated as valid only if it meets ALL the following requisites:

a. The Informer is not disqualified as provided under Section 3 of this Order.

Aside from stating his name and address, the Informer's duly sworn Confidential Information shall definitely state that he is not related within the sixth (6th) civil degree of consanguinity to any official or employee of the BIR, or any other public official or employee. Otherwise, his Confidential Information shall be treated as invalid. If the Informer withheld such information in his Confidential Information and as a result of which he was paid the Informer's reward, he shall, upon discovery of such fact, be liable to the penalty of perjury and, in addition, he shall also be required to retribute to the BIR the amount of reward wrongfully obtained, inclusive of the legal interest thereon.

b. The Informer voluntarily provides sworn information on the tax fraud or violation of the NIRC of 1997, as amended, allegedly committed by the denounced taxpayer.

The facts mentioned in the information constituting the alleged tax evasion or violation of the NIRC of 1997, as amended, must be definite, concise and credible, and not merely a general statement. It must specify: 1) the name and address of the taxpayer committing the violation; 2) taxable period when the fraud or violation was committed; 3) the internal revenue law allegedly violated; 4) the address of witnesses, if any; and 5) other facts pertinent to the violation.

Also, it must be supported by "substantial evidence" or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion, such as the following documents:

1. BIR's Certificate of Registration;
2. Income Tax Returns;
3. Deed of Absolute Sale;
4. License to Operate Business in the Philippines, as issued by

- the Securities and Exchange Commission (SEC);
5. General Information Sheet (GIS) obtained from the SEC;
6. Audited Financial Statements; and
7. Other relevant documents

The foregoing documents and other "substantial evidence" to be submitted by the Informer must consist of certified true copies. For this purpose, a certified true copy is a copy which is authenticated and signed by the authorized officer of the agency having custody of the original thereof. However, for purposes of evaluation, mere photocopies of documents which are within the custody of the denounced taxpayer (i.e. private records) may be accepted.

If the Informer does not have possession or control of such documents, records, or books but he has knowledge of the person who has the custody, possession or control thereof, or the place where they are kept, he shall state in his sworn information the person who has the possession thereof and/or the location where such documents, records and books are kept.

(c) The said information is not yet in the possession of the BIR.

In the course of the evaluation of the Informer's Confidential Information, the Chief, Prosecution Division or the Chief, Legal Division, as the case may be, shall determine from the records of the BIR whether the information being submitted is already reasonably in the possession of the BIR [e.g. the information offered by the Informer is already available from the BIR's Third Party Information (TPI) System or the same is of public knowledge as when it is already the subject of a newspaper publication or report, television or radio broadcast, etc] or will reasonably come into the possession of the BIR in the course of its operations.

Unless it is established that the information offered by the Informer is not available from the records of the BIR, the information shall not be treated as valid.

(d) The said information does not refer to a case already pending or previously investigated or examined by the Commissioner of Internal Revenue or any of his deputies, agents or examiners, or by the Secretary of Finance or any of his deputies or agents.

Any information provided in the said Confidential Information, which had already been filed with the Department of Finance and any of its attached agencies, including the BIR, shall not be treated as a valid Confidential Information.

(e) The said information does not refer to or is not exactly similar to a previous information filed by another informer covering the same taxpayer describing the same scheme or information covering the same taxable year or period.

SECTION 6. Processing of the Confidential Information and Documents.

(a) At the National Office.

Upon receipt of the information together with the supporting documents , the Chief, Prosecution Division, shall evaluate the same and shall determine whether it qualifies as a valid Confidential Information pursuant to Section 5 of this Order.

If the information is found to be invalid and insufficient, the Informer, within three (3) days from the receipt of the information, shall be notified of such findings and the information with the supporting documents should be returned to him.

If the information is found to be a valid Confidential Information, the Informer shall execute under oath four (4) copies of his Confidential Information before the Chief, Prosecution Division, and he shall attach one (1) copy of the supporting documents for each copy of the Confidential Information.

All four (4) copies of the Confidential Information with its supporting documents shall be forwarded to the Records Management Division, BIR National Office, for numbering and recording in the Confidential Entry Book provided for the purpose. The individual entries to be made in the Confidential Entry Book shall indicate the date and time the information was received; its Book Entry Number, the name and address of the Informer; name and address of the person denounced; names and addresses of the witnesses, if any; the subject matter of the information; and the list of records, documents and books submitted, if any. All the supporting documents submitted shall be duly identified, marked and sequentially numbered.

The First copy of the numbered Confidential Information and its supporting documents shall be retained by the Records Management Division for filing and reference.

The Second Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Enforcement Service for indorsement to the National Investigation Division (NID) for preliminary investigation and/or audit of the denounced taxpayer.

The Third Copy of the numbered Confidential Information and the attached supporting documents shall be forwarded to the Chief, Prosecution Division, for file and future reference (i.e. for processing of claim for reward).

The Fourth Copy of the numbered Confidential Information duly stamped received by the Records Management Division shall be furnished to the Informer, which shall serve as his identification or evidence that he is the true informer.