

**[BIR REVENUE MEMORANDUM ORDER NO, 54-
2000, December 04, 2000]**

**GUIDELINES AND PROCEDURES ON THE CONDUCT OF
SURVEILLANCE**

I. Objectives

1. To provide policies and procedures for the conduct of surveillance on the business operations of any person, natural or juridical, in order to establish a prima facie basis for the assessment of internal revenue tax liabilities pursuant to Section 6 (c) of the National Internal Revenue Code (NIRC) of 1997;
2. To determine the correct amount of tax based on the best evidence admissible in court for nondeclaration or underdeclaration of income of taxpayers which result to substantial loss of revenue;
3. To adopt surveillance as one way of checking/validating the veracity of information furnished by informants; and
4. To prescribe reporting requirements on surveillance activities.

II. Coverage

This Order shall cover:

1. Persons perceived to be not declaring their correct income, sales or receipts;
2. Persons found to have failed to issue official receipts and invoices or have issued unregistered official receipts/invoices or found to be in possession of unregistered invoices/ official receipts including unregistered cash register machines and point of sale machines in violation of the requirements under Sees. 113 and 237 of the NIRC of 1997;
3. Persons who failed to file required returns/forms/statements at the time prescribed by law or who willfully or otherwise file false or fraudulent returns/forms/statements; and
4. Persons who failed to register with the BIR as required under Sec. 236 of the NIRC of 1997.

III. Policies

1. For purposes of this Order, surveillance shall be classified as:
 - 1.1 Covert Surveillance - the surreptitious and undercover watch on the

business operations of a person for a certain period before the conduct of the inventory of business documents evidencing receipt of income as well as movement of goods or rendition of services, or apprehension/seizure of the aforementioned business documents and properties found to be the subject of violations of the provision of the NIRC of 1997 and its implementing regulations. (See Section 6(c), Tax Code of 1997).

1.2 Overt Surveillance - the type of surveillance which commences with the inventory taking of the business documents as mentioned in 1.1 above of the person under surveillance followed by the actual observation and close monitoring of the business activities of such person.

1.3 Short Duration Surveillance (Tax Compliance Check) -the type of surveillance wherein the business operations of the target taxpayer is observed for purposes of detecting non-compliance with the Bureau's primary and secondary registration requirements. It is an on-and-off activity which does not involve prolonged on-premises observation.

2. All surveillance activities shall be covered by Mission Orders (MOs) (Annex "A"*). The MOs shall be printed as accountable forms to be requisitioned by the Revenue Officials authorized to sign said MOs. MOs issued should be chronologically recorded in the Mission Order Register. The MOs shall be issued in triplicate/quadruplicate to be distributed as follows:

2.1 Original - Revenue Officers/directed to conduct the surveillance and to be attached to the report on surveillance after termination of the activity.

2.2 Duplicate - Investigating office's/division's file copy

2.3 Triplicate - Issuing office's file copy

2.4 Quadruplicate - Taxpayer's copy (in case of overt surveillance)

3. The Accountable Forms Division shall be the custodian of blank MOs and shall maintain a register of all MOs issued to the following authorized revenue officials.

Investigating Office/Division

Authorized Revenue Official

3.1 Revenue District Office (RDO)

Regional Director

3.2 Special Investigation Division (SID)

-do-

3.3 Tax Fraud Division (TFD)

Assistant Commissioner,
Enforcement Service

3.4 LT Audit & Investigation Division II
(Excise Taxpayer)/LT Audit &
Investigation Division I (Regular LTs)

Assistant Commissioner,
Large Taxpayers Service

LT Fields Operations Division/LT
District Office

The head of the investigating office/division shall in turn request for MOs from the concerned Regional Director/Assistant Commissioner.

4. Surveillance is to be conducted only if the subject taxpayer falls within the coverage of this Order.

5. At least two (2) implementing officers comprised of Revenue Officers (ROs) - (Assessment/Excise), Intelligence Officers (IOs) and Special Investigators (Sis) shall conduct the surveillance.

6. Overt Surveillance shall be conducted for a minimum period of ten (10) days and maximum period of thirty (30) days unless otherwise extended in writing by the authorized signatory. A weekly progress report shall be rendered by the concerned implementing officers to the head of the investigating office/division.

7. Round-the -clock observation/monitoring shall be done on the target taxpayer's business if the nature of the business so requires, as in the case of motels and hotels.

8. The findings may be used as the basis for assessing taxes for the other months or quarters of the same or different taxable years and such assessment shall be deemed prima facie correct.

9. Implementing officers shall not be assigned new surveillance cases until after they have reported the surveillance cases previously assigned to them.

IV. Procedures

1. Prelude to Surveillance

Acquiring preliminary information on the person to be placed under surveillance is necessary for an effective implementation thereof. Before the actual surveillance, the head of the investigating office/division must:

1.1 Acquaint himself with the business organization and economic activity of the subject of surveillance (SUBJECT), the location of the stores and outlets, the accounting records used and such other relevant information as may be available and/or necessary. This must be done with relative secrecy to prevent leakage of information to the SUBJECT.

1.2 Prepare the necessary MO for approval and signature of the concerned Regional Director/Assistant Commissioner.

The number of MOs must correspond with the number of stores and outlets to be observed/monitored in case of overt surveillance. A different set of implementing officers shall be assigned for the different stores and outlets of the same SUBJECT.

1.3 Brief the implementing officer on the acts to be performed in compliance with the MOs. The briefing shall be done within thirty minutes before the actual

surveillance. The identity of the target SUBJECT should be revealed to the implementing officers only upon arrival at the site of operations.

2. Conduct of Surveillance

2.1 Implementing officers conducting the surveillance must possess the following qualities:

- a. Ordinary appearance - The implementing officer must not have any outstanding physical characteristic or wear any distinctive article (e.g. any article which can readily identify him to be an employee of the Bureau such as wearing of uniform) which may easily attract the SUBJECT 's or his representative's attention. This is essential for covert surveillance.
- b. Ability to act naturally under all circumstances;
- c. Alertness;
- d. Resourcefulness;
- e. Keen observation and good memory; and
- f. Patience and endurance.

2.2 Performance of Surveillance Activities

Generally, surveillance may be either covert or overt Coverage surveillance will eventually become overt surveillance once the implementing officer informs the SUBJECT of his presence and purpose.

2.2.1 Covert Surveillance

- a. Observe the business operations of the SUBJECT. Develop leads from other sources by obtaining information from neighboring business establishments, locating additional outlets or warehouses of the SUBJECT.
- b. Take note of the suppliers and buyers and volume of deliveries made to and by the SUBJECT. This activity should be done discreetly. The records of the supplier and buyer may thereafter be accessed and compared with the data declared by the SUBJECT.
- c. Observe and watch out for any unregistered cash register machines (CRMs) being used, especially during peak hours.
- d. Determine violations of internal revenue laws, rules and regulations committed by the SUBJECT and the frequency of such violations.
- e. Apprehend the taxpayer by issuing on the spot an Apprehension Slip (AP) (Annex "8"), in duplicate, once caught in the act of not issuing official receipts/invoices or issuing unregistered official receipts/invoices or otherwise, found to be in violation of the provisions of Sec. 113, 236, 237 and 238 of the NIRC of 1997.