

**[BIR REVENUE MEMORANDUM ORDER NO. 10-
2013, April 17, 2013]**

**REVISED GUIDELINES AND PROCEDURES IN THE ISSUANCE AND
ENFORCEMENT OF SUBPOENAS DUCES TECUM AND THE
PROSECUTION OF CASES FOR NON-COMPLIANCE THEREWITH**

I. BACKGROUND

Section 5 of the National Internal Revenue Code of 1997 (NIRC), as amended, vests the Commissioner of Internal Revenue with authority to obtain information, summon and examine, as well as take testimony of persons in ascertaining the correctness of any return or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or simply in evaluating tax compliance. This Order is issued to further delineate and update the procedure for the issuance and enforcement of Subpoenas Duces Tecum (SDTs) to ensure full implementation of Sections 5, 14, 266 and related provisions of the NIRC, as amended.

II. FORM

BIR Form No. 0713 shall be used in the SDTs to be issued. Every SDT to be issued shall have a serial number in accordance with paragraph "III.3.9" hereof. A sample copy of BIR Form No. 0713 is hereto attached as Annex "A".

III. GUIDELINES AND PROCEDURES

- 3.1 This Order shall cover the following persons/entities enumerated under Section 5 of the NIRC, as amended, to wit:
- a. Person liable for tax or required to file a return or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for tax;
 - b. Any person other than the person whose internal revenue tax liability is subject to audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or controlled corporations (GOCCs);
- 3.2 The Head of the Revenue District Office/Large Taxpayers Audit Division/Large Taxpayers District Office/National Investigation Division/Special Investigation Division concerned or any other officer duly delegated by the Commissioner (e.g., Head of the Letter Notice Task Force) shall make a written notice to any of the persons enumerated above to provide information or the pertinent books of accounts, accounting records and particular or specific documents.

The duplicate copy of this written notice, duly acknowledged/received by the persons being served or their authorized representatives shall form part of the docket of the case.

- 3.3 In case the information or records requested are not furnished within the period prescribed in the written notice, or when the information or records submitted are incomplete, the concerned revenue officer conducting a verification or investigation (covered by a Memorandum Order, Mission Order, Letter of Authority, Tax Verification Notice or Letter Notice) shall request for the issuance of SDT through a Memorandum Report, stating therein the relevant facts, specifying the particular documents or records not made available to him and the taxpayer liable or the third party/office concerned.
- 3.4 The issuance of SDT shall be requested from the following:
- a. Assistant Commissioner, Enforcement and Advocacy Service, through the Prosecution Division – for the National Office;
 - b. Assistant Commissioner, Large Taxpayers Service, through the Prosecution Division – for taxpayers under the jurisdiction of the Large Taxpayers Service, including LTDs;
 - c. Revenue Regional Directors, through the Legal Divisions – for the Regional Offices;
 - d. Any other officer duly delegated by the Commissioner.

The records of the case shall be attached to the Memorandum Report.

- 3.5 The Prosecution Division at the National Office, the Legal Divisions at the Regional Offices, or any other officer duly delegated by the Commissioner, as the case may be, shall evaluate the request within two (2) working days from receipt, and on the basis thereof, undertake either of the following courses of action:
- a. Return the case to its origin for further documentation or action;
 - b. Prepare the corresponding SDT in three copies for signature of the Assistant Commissioner, Enforcement and Advocacy Service; Assistant Commissioner, Large Taxpayers Service; Revenue Regional Director; or any other officer duly delegated by the Commissioner, as the case may be, the distribution of which shall be as follows:
- | | | |
|------------|---|------------------------------------|
| Original | - | to be served to the taxpayer |
| Duplicate | - | attached to the docket of the case |
| Triplicate | - | action lawyer file |

- 3.6 In case the request for issuance of SDT is found to be meritorious, the SDT shall be issued to the person liable for tax or required to file a return, or should the information or records be in the possession of a third party or office, then in that party's name, requiring the concerned person to appear and submit before the signatory of the

SDT the mandated information/documents at an appointed time, date and place.

The time to be indicated in the SDT shall be during regular business hours or from eight o'clock in the morning and five o'clock in the afternoon during the work week, excluding holidays. The venue shall be in the BIR office of the signatory of the SDT.

- a. In case of corporations, partnerships or associations, the SDT shall be issued to the partner, president, general manager, branch manager, treasurer, registered officer-in-charge, employee/s or other persons responsible for the custody of the books of accounts and other accounting records mandated to be submitted or information mandated to be provided.

To ascertain the names of the incumbent of the aforesaid positions, the concerned revenue officers may access, among others, the latest General Information Sheet filed by the corporation with the Securities and Exchange Commission.

- b. If the concerned party is the national and local government, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or controlled corporations (GOCCs), the SDT shall be issued to the head of such office, agency, instrumentality, political subdivision or GOCC. If the head shall comply through a representative, the latter shall present the SDT, written authorization letter from the head, and sufficient proof of identification.

3.7 The date of issuance of the SDT shall be the date when it was officially signed.

3.8 The compliance date for the submission of books of accounts and other accounting records shall be set on the fourteenth (14th) day from date of issuance of the SDT.

3.9 The Prosecution Division at the National Office, the Legal Divisions at the Regional Offices, or any other officer duly delegated by the Commissioner, as the case may be, shall provide a corresponding serial number for each SDT issued, to be placed on the upper right portion of the SDT. The following format shall be used:

(Office Code - Year of Issuance - Series Number, which shall begin from 01 for the first SDT, to be followed by the corresponding digit in numerical order for subsequent SDTs issued.)

The Office Codes prescribed under existing issuances shall be followed.

3.10 The service of the SDT shall be effected by the revenue officers assigned to investigate the case. However, such service may be made by any other internal revenue officer authorized for the purpose.

3.11 The Assistant Commissioner, Enforcement and Advocacy Service; Assistant Commissioner, Large Taxpayers Service; Revenue Regional