

**[ BIR REVENUE MEMORANDUM ORDER NO. 42-  
2010, May 04, 2010 ]**

**PROHIBITION ON THE ISSUANCE OF TEMPORARY RESTRAINING ORDERS ON THE COLLECTION OF TAXES AGAINST THE BUREAU OF INTERNAL REVENUE BY COURTS OTHER THAN THE COURT OF TAX APPEALS, THE ISSUANCE OF WARRANTS OF DISTRRAINT AND GARNISHMENT, AND/OR LEVY ON FINAL DECISIONS OF THE BUREAU OF INTERNAL REVENUE ON DISPUTED ASSESSMENTS, CASES FILED BEFORE THE COURT OF TAX APPEALS, AND THE SALE OF PROPERTY DISTRAINED AND GARNISHED**

I. LEGAL PROVISIONS

Under Section 218 of the National Internal Revenue Code as amended, (herein referred to as the Tax Code) **NO COURT (except the CTA)** shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by the said Tax Code. This prohibition shall apply to all collection activities, including imposition and collection of taxes prescribed in tax laws; issuance of warrants of distraint and garnishment, and/or levy on final decisions of the Bureau of Internal Revenue on disputed assessments, cases filed before the Court of Tax Appeals, and the sale of property distrained and garnished.

Moreover, pursuant to Section 11 of Republic Act No. 1125 – An Act Creating the Court of Tax Appeals, as amended by Republic Act No. 9282, no appeal taken to the Court of Tax Appeals from the decision of the Bureau of Internal Revenue on a disputed assessment shall suspend the payment, levy, distraint, and/or sale of any property of the taxpayer for the satisfaction of his tax liability, unless the Court of Tax Appeals suspends the collection under certain conditions.

Furthermore, when deemed proper, the Bureau of Internal Revenue or its duly authorized agent, may cause the issuance of a Notice of Tax Lien to safeguard the interest of the national government pursuant to Section 219 of the 1997 Tax Code as well as other issuances by the Bureau of Internal Revenue.

II. ISSUANCE OF INJUNCTION OR TEMPORARY RESTRAINING ORDERS (TRO) BY COURTS

In Section 218 of the 1997 Tax Code, it is very clear and explicit that injunctions are not available to restrain collection of taxes. **No court** shall have the authority to grant an injunction to restrain the collection of any national internal revenue tax, fee or charge imposed by said Code.

By way of exception pursuant to Section 11 of Republic Act No. 1125 as amended, it