

**[ BIR REVENUE MEMORANDUM CIRCULAR NO. 13-  
2003, March 17, 2003 ]**

**TERMINATION OF AUDIT/INVESTIGATION OF TAX RETURNS IN  
THE LIGHT OF THE PRONOUNCEMENT OF THE PRESIDENT LAST  
JANUARY 20, 2003**

**I. OBJECTIVE**

This Circular is issued in order to clarify the pronouncement of Her Excellency, President Gloria Macapagal-Arroyo, in one of her recent speeches about the termination of BIR audits and investigations through letters of authority.

**II. PREMISES**

Section 6(A) of the Tax Code of 1997 provides that "After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax. . . ." Section 10 of the same Code also provides that "Under rules and regulations, policies and standards formulated by the Commissioner, with the approval of the Secretary of Finance, the Revenue Regional Director shall, within the region and district offices under his jurisdiction, among others: . . . (c) Issue Letters of Authority for examination of taxpayers within the region." Sections 58(E), 94, 95, and 97 of the Code prohibit the transfer of titles of real property sold or disposed of for a valuable consideration or through succession or gratuitous title unless the corresponding capital gains tax or creditable withholding tax, documentary stamp tax, estate tax, and/or donor's tax has been first duly determined, assessed and collected by the BIR. Likewise, Sections 76, 112, 130(4)(D) and 204(C) provide for the credit and/or refund of excess income tax, input VAT attributable to zero-rated sales and purchase of capital goods, excise tax paid on certain export items and erroneously or illegally received taxes, respectively. Consistent with the ruling in the case of *San Carlos Milling Co., Inc. vs. Commissioner of Internal Revenue and Court of Appeals* (G.R. No. 103379 dated November 23, 1993), no tax refund or credit shall be granted unless the taxpayer-claimants' entitlement thereto has been first duly established through prior audit or investigation.

**III. POLICIES**

Considering the necessity of conducting audits and verifications as mentioned above, the following guidelines shall be strictly observed:

1. No new Letters of Authority/Audit Notices, Tax Verification Notices, Mission Orders, or any written orders by the Regional Directors or any other Bureau official to audit and/or investigate internal revenue taxes shall be issued, except in the following cases: