

DEPARTMENT ORDER NO. 7-02, “PROVIDING FOR THE IMPLEMENTING RULES OF THE FIRST PARAGRAPH OF SECTION 4 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997

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For the information of all internal revenue officials and employees and others concerned, quoted hereunder is Department Order No. 7-02:

"PROVIDING FOR THE IMPLEMENTING RULES OF THE FIRST PARAGRAPH OF SECTION 4 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, REPEALING FOR THIS PURPOSE DEPARTMENT ORDER NO. 005-99 AND REVENUE ADMINISTRATIVE ORDER NO. 1-99.

WHEREAS, Section 4 of Republic Act No. 8424 (the National Internal Revenue Code of 1997, "the NIRC" for brevity) vests with the Commissioner of Internal Revenue exclusive and original jurisdiction to interpret its provisions and other tax laws, subject to review by the Secretary of Finance;

WHEREAS, Department Order No. 005-99, dated January 26, 1999 and Revenue Administrative Order No. 1-99, dated February 5, 1999, implements the power of the Secretary of Finance to review rulings of the Commissioner of Internal Revenue;

WHEREAS, there is need to further provide for the implementing rules of the first paragraph of Section 4 of the NIRC.

NOW THEREFORE, I, JOSE ISIDRO N. CAMACHO, Secretary of Finance, by virtue of the powers of supervision and control over the Bureau of Internal Revenue granted to me by Section 2 of the NIRC and Book IV, Title II, Chapter 4, Section 18 of the Administrative Code of 1987, do hereby order:

Section 1. Scope of this Order. — This Department Order shall apply to all rulings of the Bureau of Internal Revenue (BIR) that implement the provisions of the NIRC and other tax laws.

Section 2. Validity of rulings. — A ruling by the Commissioner of Internal Revenue shall be presumed valid until overturned or modified by the Secretary of Finance.

Section 3. Rulings adverse to the taxpayer. — A taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance. The request for review shall be in writing and under oath, and must:

- a) be addressed to the Secretary of Finance and be filed with the Legal Office, Department of Finance, DOF Building, BSP Complex, Roxas Boulevard corner Pablo Ocampo St., City of Manila;
- b) contain the heading "Request for review of BIR Ruling No. _____";
- c) allege and show that the request was filed within the reglementary period;
- d) indicate the Tax Identification Number of the taxpayer;
- e) allege the material facts upon which the ruling was requested;

- f) state that exactly the same facts were presented to the BIR;
- g) define the issues sought to be resolved;
- h) contain the facts and the law relied upon to dispute the ruling of the Commissioner;
- i) be signed by or on behalf of the taxpayer filing the appeal; provided that, only lawyers engaged by the taxpayer and/or tax agents accredited by the BIR may sign on behalf of the taxpayer;
- j) be accompanied by a copy of the Commissioner's challenged ruling; and
- k) contain a stamp of the Office of the Commissioner of Internal Revenue, indicating that a copy of the request to review the ruling was received by the Commissioner; and
- l) specifically state that the taxpayer does not have a pending assessment or case in a court of justice where the same issues are being considered.

Furthermore, the taxpayer must, at the time of filing of the request for review, submit a duplicate copy of the records on file with the BIR pertaining to his request, which set of records must be authenticated and certified by the BIR.

The Secretary of Finance may dismiss with prejudice a request for review that fails to comply with these requirements.

Section 4. Motu proprio review by the Secretary of Finance. —The Secretary of Finance may, of his own accord, review a ruling issued by the Commissioner of Internal Revenue. In such a case, the Secretary of Finance shall order the Commissioner of Internal Revenue to transmit a duplicate copy of the BIR records. The Commissioner of Internal Revenue shall transmit such records within fifteen days from receipt of notice of the request for transmittal.

Section 5. Affirmation, reversal or modification by the Secretary of Finance. — The Secretary of Finance may affirm, reverse or modify a ruling of the Commissioner of Internal Revenue. In the case of an affirmation, the Secretary of Finance may rely wholly on the reasons stated in the ruling of the Commissioner of Internal Revenue.

Subject to Section 246 of the Republic Act No. 8424, a reversal or modification of the ruling shall terminate its effectivity upon the earlier date of the receipt of written notice of such reversal or modification by the taxpayer or by the BIR.

Section 6. Certification fee to be imposed by the BIR. — Except for review of rulings under Section 4, the BIR may impose appropriate certification fees to carry out the provisions of this Order.

Section 7. Repealing Clause. — Department Order No. 005-99 and Revenue Administrative Order No. 1-99, as well as all other existing Department Orders and issuances of the Commissioner of Internal Revenue that are inconsistent with this Order are hereby repealed.

Section 8. Effectively. — This Department Order shall take effect immediately.

Adopted: 07 May 2002.

(SGD.) JOSE ISIDRO N. CAMACHO
Secretary of Finance

All concerned are hereby enjoined to give this Circular as wide a publicity as possible.

(SGD.) RENE G. BAÑEZ
Commissioner of Internal Revenue

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