

**[BIR REVENUE MEMORANDUM ORDER NO. 23-97,
April 07, 1997]**

**FURTHER AMENDMENT TO RMO NO. 15-95 AS AMENDED BY RMO
31-95 AND RMO 1-96 TO CLARIFY CERTAIN PROVISIONS AND
TO ADD NECESSARY STEPS IN THE PROCEDURAL PROCESS OF
THE TAX FRAUD INVESTIGATION**

In order to clarify the confusion as to the quantum of evidence in the preliminary and formal investigations of the tax fraud cases and to guide all investigators and intelligence officers of the Tax Fraud Division, National Office and Special Investigation Division of the Regional Offices, as to the extent of their authority to conduct tax fraud investigation, the following provisions of RMO No. 15-95 are hereby further amended to read as follows:

A.

x x x x

B. JURISDICTION

1. TAX FRAUD DIVISION

1.1 .x.x.x x

1.2 Selected machine generated cases with indications of fraud.
(Result of the interface of Audit [AUD] and Tax Reconciliation [TRS]
Systems).

2. SPECIAL INVESTIGATION DIVISION

2.1 The SID shall have jurisdiction over the following cases:

21.1 x x x x

2.1.2 Tax fraud cases initiated and developed by the SID, including
policy cases which the Regional Director may generate from the records
available at his level;

2.1.3 Tax fraud cases referred to it by the RDO within the Region, and
Third Party Information Unit, Assessment Service of the National Office;

2.1.4 Selected machine generated cases with indications of fraud.

(Result of the interface of Audit [AUD] and Tax Reconciliation [TRS] Systems).

C. PROCEDURE

A Preliminary Investigation must first be conducted to establish the indication of fraud. This shall include the verification of the allegations in the confidential information and/or complaints filed, and the determination of the schemes and the probable extent of fraud perpetrated by the subject taxpayers, through access to records and surveillance, without contact, personal or otherwise, with the taxpayer.

The Formal Tax Fraud Investigation which includes the examination of the books of accounts through the issuance of the Letter of Authority, shall be conducted only after the existence of indications of fraud have been confirmed by the Regional Tax Fraud Committee (RTFC).

In the prosecution of criminal cases for violation of internal revenue laws, service of Assessment Notice to the taxpayer is not a requirement following the Supreme Court's ruling in the case of Ungab vs. Cusi, 97 SCRA 877.

1. TAX FRAUD DIVISION

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1.4 In reports of cases not recommended for criminal prosecution, the following shall be observed:

1.4.1 In cases where the evidence of fraud does not warrant criminal prosecution of the case, investigation shall be pursued and the report thereof shall be submitted to the Commissioner or Assistant Commissioner, Intelligence and Investigation Service for approval;

1.4.2 The final report of investigation having been approved by the Commissioner or the Assistant Commissioner, Intelligence and Investigation Service, as the case may be, the Assessment Notice and the Letter of Demand shall be immediately served to the taxpayer concerned;

1.4.3 In cases where the tax liabilities have been fully paid, the docket of the case shall be forwarded to the Records Division of the National Office for safekeeping. Where the taxpayer fails/refuses to-pay the assessment within the prescribed period, the docket shall be forwarded to the Collection Division of the Revenue Region concerned for the application of the civil remedies under the NIRC for the collection of taxes.

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2. SPECIAL INVESTIGATION DIVISION

2.1 The Chief of the SID shall issue the corresponding Letter of Authority if indications of fraud have been established, and the same has been confirmed by the Regional Tax Fraud Committee (RTFC), composed