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Validity period of LOA

SECTION 6 of the Tax Code, as amended, authorizes the commissioner of Internal Revenue or his duly authorized representative to delegate the examination of any taxpayer for the assessment of the correct amount of tax. On the other hand, Section 13 of the same code explicitly provides that a revenue officer assigned to perform assessment functions in any district must be duly armed with a letter of authority (LOA).

Thus, as part of due process, the audit of the Bureau of Internal Revenue (BIR) commences with the issuance of an LOA, which is an official document that empowers a revenue officer to examine and scrutinize a taxpayer's books of accounts and other accounting records, in order to determine the taxpayer's correct internal revenue tax liabilities.

There must be a grant of authority before any revenue examiner can conduct an examination or assessment. Equally important is that the revenue officer must not go beyond the authority given. In the absence of such an authority, the assessment or examination is a nullity (GR 178697).

Thus, unless authorized by the commissioner himself or by his authorized representative, through an LOA, an examination of the taxpayer cannot ordinarily be undertaken. It is the LOA which is the jurisprudentially recognized document which gives the revenue officer/s named therein, the power to examine the books of account and other accounting records of a taxpayer (CTA Case 8655). Non-observance of this rule amounts to a violation of taxpayer’s right to due process (GR 222743).

Under the BIR’s General Audit Procedures and Documentation, a revenue officer is allowed only 120 days from the taxpayer’s date of receipt of an LOA to conduct audit and submit the required report of investigation. If the revenue officer is unable to submit his final report of investigation within the 120-day period, he must then submit a progress report to his head of office, and surrender the letter of authority for revalidation.

Previously, it has been the position of the court that the LOA is valid notwithstanding that the investigation and audit lasted more than 120 days. The noncompliance with the 120-day period to conduct the audit under the Taxpayer Bill of Rights will not nullify the LOA previously issued (CTA EB 1223).

In a recent turn of event, however, the Court of Tax Appeals has held that an LOA is valid only for 120 days, and the revenue officer named therein must conduct audit and submit a report thereon within the 120-day validity period of the LOA. Failure to submit a report within the said 120-day period will render the assessment void, absent any issuance of a revalidated LOA.

Any investigation and report issued by an examiner beyond the 120-day period and without revalidating the LOA is void. According to the tax court, if the revenue officer is unable to submit the final report of investigation within the 120-day period, and thereafter submits a final report of investigation without a revalidated LOA, he will be considered to have acted beyond his authority, making the assessment void (CTA Case 8837). The LOA must be revalidated in cases where no report was made within its 120-day validity period (CTA EB 1535).

This is another taxpayer’s right that may be invoked in the meantime that the Supreme Court has yet to say a word on this issue.

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