REVENUE MEMORANDUM CIRCULAR NO. 12-2018 issued on February 22, 2018 clarifies that the nature and extent of the power of the Commissioner of Internal Revenue (CIR) to obtain information under Section 5 of the National Internal Revenue Code (NIRC) of 1997, as amended, serves as an exception to both the Attorney-Client and Accountant-Client privilege.

First, Rule 21.01 of the Lawyer’s Code of Professional Responsibility provides that a lawyer shall not reveal the confidence or secrets of his client except, among others, when required by law. Second, in Genato V. Silapan, the Supreme Court stressed that the privilege against disclosure of confidential communications or information does not extend to those made in contemplation of a crime or perpetration of fraud. Notably, attempt to evade or defeat tax is a criminal offense defined and punishable under Section 254 of the NIRC, as amended. Third, Section 29 of RA No. 9298 states that the Accountant-Client privilege does not apply if the production of documents is through a subpoena issued by any court, tribunal, or government regulatory or administrative body. Fourth, Section 140.1 of the Code of Ethics of Professional Accountants provides that professional accountants shall refrain from disclosing outside the firm or employing organization confidential information acquired as a result of professional and business relationship unless there is a legal right or duty to disclose. Finally, taxes are the lifeblood of our nation so its collection should be actively pursued without unnecessary impediment.

The privileged communication of Attorney-Client and Accountant-Client cannot be used to defeat the very purpose and objective of the CIR’s power to obtain information under the Tax Code.