REVENUE MEMORANDUM CIRCULAR NO. 75-2018 issued on September 5, 2018 highlights the mandatory statutory requirement and function of a Letter of Authority (LOA).

The Supreme Court ruling in the case of “Medicard Philippines, Inc. vs. Commissioner of Internal Revenue” (G.R. No. 222743, April 5, 2017) states that no assessments can be issued or no assessment functions or proceedings can be done without the prior approval and authorization of the Commissioner of Internal Revenue (CIR) or his duly authorized representative through a LOA.

Any tax assessment issued without an LOA is a violation of the taxpayer’s right to due process and is therefore “inescapably void.”

The circumstances contemplated under Section 6 of the National Internal Revenue Code (NIRC), as amended, “where the taxpayer may be assessed through best evidence obtainable, inventory-taking or surveillance, among others, have nothing to do with the LOA. These are simply methods of examining the taxpayer in order to arrive at the correct amount of taxes. Hence, unless undertaken by the CIR himself or his duly authorized representatives, other tax agents may not validly conduct any of these kinds of examinations without prior authority.”

A Letter Notice (LN) “is entirely different and serves a different purpose than an LOA”. It is not found in the NIRC and is not an authority to conduct an audit or examination of the taxpayer leading to the issuance of deficiency assessments. Due process demands that after an LN has served its purpose, the Revenue Officer should have properly secured an LOA before proceeding with the further examination and assessment of taxpayer.

Any Examiner or Revenue Officer initiating tax assessments or performing assessment functions without an LOA shall be subject to appropriate administrative sanctions.