REVENUE MEMORANDUM ORDER NO. 46-2004 issued on November 3, 2004 provides additional supplement and guidelines in handling Letter Notices (LN) with discrepancies arising from Data Matching Process that remain unserved, have been served but are without response or are under protest by taxpayers.

Discrepancy arising from the “no-contact-audit approach” shall represent the results of the computerized matching of data/information from third party sources/providers vis-à-vis return information filed by the taxpayers and not the results of an audit or investigation.

Those LN for which no responses have been received shall no longer be forwarded to the Special Concerns Group (SCG) [in case of Summary List of Sales/Summary List of Purchases (SLS/SLP) LN] or the Technical Working Group (TWG) [in case of Bureau of Customs (BOC) LN].

In the case of “no-response” LN that involve discrepancies of less than 30%, the Revenue Officer (RO) concerned shall endorse the case to the Assessment Division of the Region, or its equivalent office in the Large Taxpayers Service, for the issuance of a Preliminary Assessment Notice (PAN) or Final Assessment Notice (FAN), as the case may be. However, if the discrepancy stated in the LN is 30% and above, the RO shall institute closure proceedings pursuant to the provisions of Revenue Memorandum Order No. 31-2002.

In case a taxpayer protests the accuracy of the data provided by third party sources, the RO concerned shall evaluate the protest and require the taxpayer to execute a Sworn Statement attesting to the alleged inaccuracies or errors in the Third Party Information (TPI). The TPI provider (except BOC) shall also be required to execute a Sworn Statement attesting to the data provided.

In case of tax evasion, based on the documents submitted by both the TPI providers and the taxpayer concerned, the Regional Director/Head of the Large Taxpayers Service, in addition to the filing of criminal charges, shall decide on the most appropriate enforcement action (i.e. audit/investigation, surveillance, stock-taking) that will expedite the recovery of the unpaid taxes.

If said enforcement action decided is the conduct of an audit/investigation, the audit to be conducted should – whenever possible – be an issue-based audit focusing on the information provided by the TPI source(s) and the explanation furnished by the taxpayer. A comprehensive audit shall be undertaken only when an issue-based audit is not feasible. Once the discrepancy has already been determined, the RO shall have a minimum of 30 days and a maximum of 60 days from submission of the Sworn Statement by the TPI source to terminate the audit/investigation.