REVENUE MEMORANDUM ORDER NO. 7-2010 issued on January 25, 2010 prescribes the guidelines and procedures in handling Letter Notices (LNs) generated thru the Tax Reconciliation System (TRS) and Reconciliation of Listing for Enforcement System (RELIEF)/Third Party Matching - Bureau of Customs (TPM-BOC) Data Program for the Year 2008, which shall cover the Income, Value-Added, Percentage and Withholding tax liabilities for taxable year 2008 of individual and corporate taxpayers registered under the Large Taxpayers Service – Regular, Excise and Large Taxpayers District Offices (LTDOs) and Revenue Region Nos. 4 to 9.

LNs covering taxable year 2008 shall be deployed based on the parameters set by the a) Withholding Tax Division (WTD) for TRS-LN, together with the Details of Withholding Agents/Payors and Payees/Income Recipient Report (DWAPR), and the b) Audit Information, Tax Exemptions and Incentives Division (AITEID) for RELIEF-LN, together with the Details of Taxpayer’s Customers/Suppliers (DTCS) and/or Details of Importations with Return Information Matching (DIRIM), via the Information Delivery Portal (IDP), as the case may be, and shall be approved by the Commissioner of Internal Revenue (CIR), through the Overall Head LN Task Force (LNTF).

TRS-LNs covering taxable year 2008 shall be consolidated with RELIEF-LNs and shall be handled by the same investigating office (RO who shall handle TRS-LN shall be the same RO to handle RELIEF-LN) wherein the report of investigation/verification shall be forwarded to the Office of the Commissioner of Internal Revenue (OCIR), Attention: Overall Head LNTF, for proper disposition.

The LNTF/concerned investigating offices shall prepare a Follow-up Letter and serve the same to the taxpayer if no response was received after 5 days from receipt by the taxpayer of the LN. In the event a taxpayer who has been issued an LN refutes the discrepancy, he/she/it shall be given an opportunity to reconcile his/her/its records with those of the BIR within 10 days from receipt of his/her/its LN and to submit documentary proofs in support of his/her/its arguments.

If after 10 days from receipt of Follow-up Letter, no response was received from the taxpayer, or he/she/it fails to submit the required documents after filing the protest within the 5-day period after receipt of the LN, the LNTF/concerned investigating office shall endorse the docket and recommend to the OCIR (through the Overall Head LNTF) the issuance of an issue-based Letter of Authority (LA) to cover specifically “Income, Value-Added, Percentage and Withholding Taxes Due to Discrepancy/ies Reflected in the LN”. A Notice for Informal Conference, together with the LA, shall be served to the taxpayer. If the taxpayer fails to settle his/her/its Income, Value-Added, Percentage and Withholding Tax liabilities resulting from LN discrepancy/ies within 5 days from receipt of Notice for Informal Conference and LA, the LNTF/concerned investigating office shall endorse the docket to the OCIR, Attention: Overall Head LNTF for any or a combination of the following actions:

a. The issuance of the Preliminary Assessment Notice (PAN)/Final Assessment Notice (FAN) in accordance with the provisions of Revenue Regulations (RR) No. 12-99;
b. If the under-declaration is 30% or more, the taxpayer may be recommended for the imposition of administrative sanction of suspension and temporary closure of business in accordance with the provisions of RMO No. 3 – 2009 (Oplan Kandado);
c. The issuance of the compulsory process of Subpoena Duces Tecum (SDT). The issuance and enforcement of the SDT must be made in strict compliance with the procedures enunciated in RMO No. 35 - 1990 and RMO No. 9 - 2003 requiring the taxpayer to appear before the OVERALL HEAD LNTF thru the LN Secretariat for the presentation or production of his books of accounts and other accounting records. If the taxpayer fails, refuses or neglects to comply with the summons contained in the SDT, the LNTF/concerned investigating office shall endorse the docket to the
appropriate legal office in the National or Regional Offices under its respective jurisdictions for the filing of a criminal case for violation of Section 266 of the NIRC of 1997, as amended. The investigating team/office shall likewise endorse the docket to the OCIR, Attention: Overall Head LNTF for the issuance of the Preliminary Assessment Notice (PAN)/Final Assessment Notice (FAN) in accordance with the provisions of Revenue Memorandum Circular No. 23 – 2000.

For LNs being handled by the Revenue District Office (RDO)/Large Taxpayer Regular Audit Divisions (LTRAD)/Large Taxpayers Excise Audit Divisions (LTEAD)/Large Taxpayers District Offices (LTDO) originally assigned (with LAs issued whether the investigation is ongoing or terminated) or assumed (referred by the LNTF), the respective investigating offices shall resolve the LN discrepancy within 30 days from receipt of the original/referral assignments. After the lapse of the 30-day period and there is no resolution or action taken, except when the investigation office recommends for the administrative sanction of suspension and temporary closure of business under RMO No. 3 – 2009 or recommends for the issuance of an SDT, the LN will be referred back without delay to the LNTF, which shall immediately take-over the case for resolution of the LN discrepancy.

For LNs being handled by the LNTF, whether originally assigned (LNs without LAs) or assumed (referred by RDO/LTRAD/LTEAD/LTDO), the LNTF shall resolve the LN discrepancy within 60 days from receipt thereof. After the lapse of the 60-day period and there is still no resolution or action taken thereon, except when the investigation office recommends for the administrative sanction of suspension and temporary closure of business under RMO No. 3 – 2009 or recommends for the issuance of an SDT, the LN will be referred, without delay, to the appropriate investigating office, which has jurisdiction over the principal place of business of the concerned taxpayer and such investigating office shall immediately take-over the case for resolution of the LN discrepancy.

A list of Revenue Officers (ROs) who failed to comply with the 30/60 day rule will be forwarded to the Inspection Service for the issuance of a show cause order. Appropriate sanctions against erring ROs will be imposed, if warranted. “Revalida” of selected audit reports of investigation of erring ROs will be conducted. Reward for exemplary performance awaits those with excellent accomplishments.

If there is an on-going audit/investigation pursuant to an LA for taxable year 2008 in accordance with the applicable audit program issued prior to LN deployment, the LNs (TRS and/or RELIEF) shall be consolidated with the corresponding LA. The TPI (third-party information) reflected in the said LNs shall be properly utilized and the extent of its utilization shall be included in the report of investigation by the concerned RO. The policy of non-closure of 2008 LA without the resolution of the LN will be strictly enforced. The LNTF/HEAD-LNTF in such cases shall review the utilization of the TPI which resulted to the discrepancy/ies reflected in the LNs.

LNs which remain unserved due to failure to locate the taxpayers after exhausting all possible means shall be sent by registered mail to the office address indicated in the LN. If the LN sent by registered mail was returned to sender, the LNTF may recommend the cancellation of the registration of taxpayers that cannot be located. A list of unlocated taxpayers with cancelled registration shall be published in two (2) newspapers of general circulation. Unless the purchasers will be able to give the current business address of the LN recipient to the BIR, the purchases from these taxpayers with cancelled registration shall not be allowed as deduction for Income Tax purposes. Likewise, input taxes from these purchases will be disallowed for VAT purposes. “Returned to Sender” LNs shall likewise be endorsed to ORD, in case of RDOs; to OACIR-LTS, in case of TRAG/LTEAD/LTDO; or to HEAD LNTF in case of LNTF Attention: AITEID, for inclusion in the cancelled registration database.
For taxpayer issued with an LN who transferred to another investigating office, the RDO/LTRAD/LTEAD/LTDO shall forward the LN, together with the DWAPR/TCS/DIRIM and documentary proofs to the OCIR, Attention: AITEID, for validation/cancellation. AITEID shall refer the same to Systems Operations Division (SOD) for regeneration.

In the event that the case with LA is already terminated before the LN is issued, the Assessment Division (AD) Regional Office/Reviewing Office - Large Taxpayer Service (LTS) shall forward the docket of the closed case to the LNTF. The LNTF will ascertain whether the discrepancies reflected in the LNs were considered in the report of investigation. If the discrepancies were not included, the LNTF shall prepare the appropriate recommendation to the CIR thru the Overall Head LNTF, for appropriate review and approval. The LNTF may, at its option, forward the LA docket, together with the LN/s, to investigating office thru the Assessment Division (AD)/Reviewing Office – Large Taxpayer Service (RO-LTS), for appropriate action. If the discrepancy was considered, the LNTF shall recommend for the cancellation of the said LN/s to the OCIR. The OCIR shall refer the same to AITEID for final validation and/or cancellation. In all cases, the concerned investigating office shall forward the LN with LA tax dockets (which contain LN discrepancy findings and photocopies of the Memorandum Audit Report, Working Papers showing the reconciliation done and BIR Form 0500 Series) to the LNTF within ten (10) days after payment of deficiency tax(es), for approval thereof. The LNTF shall conduct review and evaluation of dockets on action taken on the LNs with LA as to extent of LN discrepancy utilization/payment and forward the same to the OCIR, Attention: AITEID, for appropriate action.

In case the taxpayer files a protest against PAN/FAN and requests for reinvestigation/reconsideration, the investigating team/offices shall forward the request to the Head-LNTF for evaluation of the protest in accordance with the provisions of RR No. 12-99.

In case the taxpayer agrees with the findings covered by the LNs, an “Agreement Form” shall be executed by the taxpayer or his duly authorized representative indicating therein the amounts and dates when the deficiency tax(es) shall be paid. The concerned investigating offices (RDO/LTRAD/LTEAD/LTDO/LNTF) shall prepare BIR Form No. 0611-A, which shall serve as the basis for the payment of deficiency tax(es) according to the following criteria:

- P 1,000,000.00 or less ......... ACIR-LTS/RD
- Over P 1,000,000 up to P 5M ......... Head-LNTF
- Over P 5M up to P 10M ............ Overall Head LNTF
- Over P 10M ............................ CIR

The taxpayer shall be entitled to the abatement of interests and penalties provided he pays the deficiency tax(es) within 30 days from receipt of the LN covering taxable year 2008. Any payment of tax liabilities beyond the 30-day period shall be assessed with the corresponding interests and penalties.

Installment payment shall be allowed in cases where the tax liabilities exceed P 500,000.00. In this case, a written request for installment payment of the basic tax due plus increments using the Application for Installment Payment must be accomplished. The interest corresponding to the basic tax due per installment shall be computed up to the date of payment as shown in the application.

The settlement and payment of the deficiency tax(es) under an LN or issue-based LA by a taxpayer shall not preclude the BIR from issuing an LA/TVN covering the comprehensive audit/investigation of his tax liabilities, if warranted. However, any payment of deficiency tax(es) shall be credited against any assessment that may be made by the investigating office pursuant to an LA/TVN, provided the discrepancies disclosed by said audit/investigation are of the same nature as the discrepancies reflected in the LN.
Revenue Memorandum Circular No. 40-2003 provides that LNs issued to taxpayers can be considered notice of audit/investigation insofar as the amendment of any return covering the period referred to in the LN. Accordingly, a taxpayer is disqualified from amending his return covering the period referred to in the LN upon issuance of the same. Furthermore, CTA Case No. 7093 dated February 22, 2006 states that “LNs issued against a taxpayer in connection with the information of under declaration of sales and purchases gathered through Third Party Information Program may be considered as a “notice of audit or investigation” in the absence of evident error or clear abuse of discretion.”