REVENUE MEMORANDUM ORDER NO. 27-2010 issued on March 17, 2010 prescribes the enhanced policies and guidelines to re-invigorate the Run After Tax Evaders (RATE) Program.

The Bureau of Internal Revenue (BIR), through the National Investigation Division (NID)/Special Investigation Divisions (SIDs) shall coordinate with the concerned government agencies, such as, but not limited, to the Department of Justice, National Bureau of Investigation, Criminal Investigation and Detection Group, and other entities, in the development, investigation and prosecution of RATE cases, and in preventing the concealment/disposal/transfer of assets by taxpayer being investigated under the RATE Program. The Taxpayer Lifestyle Check System, among others, shall be used in the development of RATE cases.

The Revenue District Offices (RDOs), the Large Taxpayers Service (LTS) and its District Offices and Divisions shall act immediately in all requests from the NID or the SIDs for information needed to validate or develop RATE cases. Failure of an RDO/LTS District Office or Division to provide the requested information within 15 working days from receipt of a request for information shall be considered as sufficient grounds for the imposition of administrative disciplinary action against the concerned office.

In all RATE cases, a preliminary investigation must first be conducted to establish prima facie evidence of fraud or tax evasion. Such investigation shall include the verification and determination of the schemes employed and the extent of fraud perpetrated by the subject taxpayer.

In the event that, following the conduct of the required preliminary investigation, the NID/SIDs should determine that there is prima facie evidence of tax fraud, it shall submit the case, together with a memorandum justifying the issuance of a Letter of Authority (LA) to the Deputy Commissioner – Legal and Inspection Group (DCIR-LIG), through the Assistant Commissioner (Enforcement Service)/concerned Regional Director, for evaluation. If the DCIR-LIG finds a request meritorious, the docket of the case, together with the memorandum-request bearing the concurrence of the DCIR-LIG, shall be forwarded to the Commissioner of Internal Revenue (CIR), for final review and approval.

The DCIR-LIG shall likewise conduct the appropriate verification with the Letter of Authority Monitoring System (LAMS) to ascertain whether an LA for a taxpayer for a particular taxable year has already been issued to the concerned taxpayer. In the event that it is ascertained that no LA has been previously issued against the concerned taxpayer, a printout of the LAMS search results must be included in the docket of the case to support the issuance of the requested LA.

If, however, it is disclosed that an LA was previously issued to the concerned taxpayer, and that the corresponding investigation has already been commenced or concluded, the DCIR-LIG shall include in the request for issuance of an LA to the CIR a recommendation and justification for the re-assignment to, or re-opening of the investigation by the NID/SID concerned.

In the event that the CIR should rule in favor of the re-assignment to/re-opening of the tax investigation by the NID/SID, the DCIR-LIG shall inform the RDO/LT District Office or Division concerned, thru the Regional Director/Assistant Commissioner – LTS, of the decision of the Commissioner, and require the transmittal of the docket of the case to the NID/SID, as well as the cancellation of the existing LA. Should the Commissioner approve a request for issuance of an LA, such approval will be communicated to the DCIR-LIG for the preparation and issuance of the requested LA by the latter. All LAs issued for RATE cases shall be signed by the DCIR-LIG.

The issuance of LAs shall cover only the taxable year(s) for which prima facie evidence of tax fraud, or of violations of the Tax Code, was established through the appropriate
preliminary investigation, unless the investigation of prior or subsequent years is necessary in order to:

- Determine or trace continuing transactions entered into in the covered year and concluded thereafter, or those transactions concluded in the covered year that were commenced in prior years; or
- Establish that the same scheme was utilized for prior or subsequent years.

The formal investigation of a RATE case, including the examination of the taxpayer’s books of accounts, accounting records and third-party records through the issuance of LAs and/or access letters (if warranted), shall be commenced only after prima facie evidence of fraud or tax evasion has been established. In cases where the quantum of evidence gathered is not sufficient to prove guilt beyond reasonable doubt, and as such does not warrant the institution of criminal proceedings against the concerned taxpayer, but there exists clear and convincing evidence that fraud has been committed, a 50% surcharge shall be imposed on the taxpayer, together with the deficiency tax assessment.

Following the conclusion of the formal investigation, the NID/SID shall refer the RATE case, together with the complete set of supporting documents to the National Office (NO) RATE Team/Legal Division, for evaluation and appropriate action. In the event that the NO-RATE Team/Legal Division should determine that a particular RATE case is insufficient in form and substance, it shall return the case to the NID/SID, for further investigation, specifying the points or aspects that must be enhanced and/or the additional supporting documents and information that is needed to strengthen the case.

However, if a RATE case is found to be sufficient in form and substance, the NO-RATE Team shall prepare the appropriate Complaint Affidavit (CA) and Referral Letter (RL), and forward the same, together with the docket of the case, to the DCIR-LIG, through the Enforcement Service, for review and evaluation. The Legal Division, shall prepare the CA and RL and transmit the docket of the case to the DCIR-LIG, through the concerned Regional Director, for review and evaluation.

The NID must be able to report at least two (2) cases per month that have been submitted by the NO-RATE Team to the DCIR-LIG, for prosecution. Each SID must be able to report at least three (3) cases per quarter that have been submitted by the concerned Regional Legal Division to the DCIR-LIG, for prosecution.

The DCIR-LIG shall forward all RATE cases recommended for criminal prosecution, together with the corresponding CAs and RLs to the Office of the Commissioner, for final review, approval and signature. The prosecution of RATE cases developed and investigated by the NID shall be carried out by the NO-RATE Team, while the prosecution of RATE cases from the SIDs shall be accomplished by the Legal Divisions. All criminal prosecution proceedings for RATE cases shall be executed in coordination with the Department of Justice.

The Commissioner or any other authorized officer shall issue the Warrants of Distraint and/or Levy/Warrants of Garnishment in order to protect the interest of the government over the tax liabilities of a taxpayer undergoing a RATE prosecution.

All internal revenue taxes collected as a result of a RATE investigation shall be credited to the RDO or LT District Office/Division having regular jurisdiction over the concerned taxpayer.