ON JANUARY 23, 2009, the BIR issued Revenue Memorandum Order (RMO) No. 3 - 2009 to implement a nationwide “Oplan Kandado” Program.

Under the program, business operations of non-compliant taxpayers will be suspended and their establishments will be temporarily closed if they will be found to have violated certain tax laws.

“Oplan Kandado” aims to intensify the Bureau’s enforcement operations through strict imposition of prescribed administrative sanctions for non-compliance with the basic tax requirements.

Pursuant to the provisions of the said RMO, business operations can be suspended or temporarily closed for the following grounds: failure to issue receipts or invoices by a VAT-registered or registrable taxpayer; failure to file a VAT return; understatement of taxable sales or receipts by 30% or more of the correct amount thereof in the case of a VAT-registered or registrable taxpayer; or failure to register. The closure of a business establishment shall last for a period of not less than five (5) days, and shall be in force until the violation is rectified by the concerned taxpayer.

The suspension and temporary closure of business shall not preclude the BIR from filing the appropriate charges under the Run After Tax Evaders (RATE) Program of the Bureau, if evidence so warrants, against the taxpayer concerned or responsible officers of the corporations (in case of corporate taxpayers).

The Closure Order shall only be lifted by the BIR when there has been: a) subsequent filing or amendment of returns with the payment of the tax inclusive of statutory penalties; b) subsequent registration with the payment of the corresponding compromise penalties; c) payment of deficiency taxes inclusive of penalties corresponding to the sales where no invoices/receipts have been issued; and d) payment of deficiency taxes inclusive of penalties corresponding to the understatement of taxable sales or receipts.

The lifting of the Closure Order shall not release the taxpayer from the compliance requirements and from the penalties prescribed by the Tax Code for the violation, which shall be dealt with by criminal prosecution or by compromise settlement.

The policies and implementing guidelines governing the nationwide implementation of “Oplan Kandado” are specified in RMO No. 3 - 2009. (see full text at www.bir.gov.ph)