TAX EVADERS, watch out!

Two law enforcement agencies, the National Bureau of Investigation (NBI) and the Criminal Investigation and Detection Group (CIDG) have recently joined forces with the BIR to intensify the investigation, enforcement and prosecution of tax evaders.

Said initiative is in line with the Bureau's re-invigorated Run After Tax Evaders (RATE) Program, which was institutionalized by Commissioner Joel L. Tan-Torres through the issuance of Revenue Memorandum Order (RMO) No. 27-2010 last March 17.

The cooperative effort between BIR and the two agencies to flush out tax evaders was formalized through the signing of a Memorandum of Agreement (MOA) last March 17 by Commissioner Tan-Torres, NBI Director Nestor M. Mantaring and CIDG Director Francisco C. Montenegro.

Based on the MOA, the NBI and the CIDG agreed to provide the BIR with necessary manpower support and expertise in the conduct of surveillance, investigation, enforcement and prosecution of tax evaders, including the service of summons and implementation of issued warrants of arrest, garnishment, distraint and levy. The agencies will also inform the BIR of any tax evasion cases they have uncovered in the course of their investigation, as well as provide briefing and training to BIR personnel in the areas of surveillance, gathering of evidence, criminal law and other relevant topics.

The National Investigation Division (NID) and the Special Investigation Division (SID) in the Revenue Regions shall be the principal officers responsible for the development of RATE cases. They shall coordinate with the NBI and CIDG in the development, investigation and prosecution of RATE cases, and in preventing the concealment, disposal and/or transfer of assets by taxpayers being investigated under the program.

In developing RATE cases, the NID and the SID shall use, among others, the data gathered under the Taxpayers’ Lifestyle Check System (TLCS), an anti-tax evasion measure prescribed under RMO No. 19-2010.

To expedite the development of RATE cases, the Revenue District Offices (RDOs), the Large Taxpayers Service (LTS) and its District Offices and Divisions are directed to act immediately on all requests for information made by the NID and SID to validate or develop RATE cases. Failure of said offices to provide the requested information within 15 working days (from receipt of the said request) shall be considered as sufficient grounds for the imposition of administrative disciplinary action against the erring office.

RMO No. 27-2010 also specifies that in all RATE cases, preliminary investigation must first be conducted to establish prima facie evidence of fraud or tax evasion. The formal investigation of a RATE case, including the examination of the taxpayer’s book of accounts, accounting records and third-party records, through the issuance of Letter of Authority and/or access letters (if warranted), shall commence 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.