

MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 67

CLARIFYING THE AUTONOMOUS POWERS OF THE COMMISSIONERS OF INTERNAL REVENUE AND CUSTOMS UNDER LETTER OF INSTRUCTIONS NO. 204, DATED JULY 24, 1974, AND EXECUTIVE ORDER NO. 39, DATED AUGUST 6, 1986, AS REITERATED UNDER EXECUTIVE ORDER NO. 127, DATED JANUARY 30, 1987.

WHEREAS, Executive Order No. 127, dated January 30, 1987, re-organized the Ministry (now Department) of Finance;

WHEREAS, the Minister (now Secretary) of Finance has the power of supervision and control of the Ministry (now Department) of Finance under Section 6 of Executive Order No. 127;

WHEREAS, the Ministry (now Department) of Finance consists of the (a) Ministry (now Department) Proper, (b) Operations Groups and their constituent units and (c) Regional Offices under Section 7 of Executive Order No. 127;

WHEREAS, the Operations Groups include the Revenue Operations Group consisting of the (a) Bureau of Internal Revenue, (b) Bureau of Customs, (c) Revenue Service and (d) Legal Service under Section 12(a) of Executive Order No. 127;

WHEREAS, Section 28 of Executive Order No. 127 provides that "Letter of Instructions 204 which grants full authority to the Commissioner of Internal Revenue in matters of discipline and appointment of Internal Revenue Personnel shall remain in effect;"

WHEREAS, Letter of Instructions No. 204, dated July 24, 1974, authorized the Commissioner of Internal Revenue "to utilize the entire tax enforcement including of the Government in x x x preventing officials and employees of the Bureau of Internal Revenue from backsliding or from otherwise committing or engaging in acts inimical to the service and/or the New Society" and "enforcing complete and absolute discipline among bureau officials and employees with the full authority to promote, transfer, assign, suspend, dismiss or otherwise penalize, reinstate, and appoint bureau personnel," as well as to "apply upon any backsliding or erring official or employee of the Bureau the full force of the laws, including, if warranted, recommendation for their arrest or detention;"

WHEREAS, Section 33 of Executive Order No. 127 provides that "Executive Order No. 39 dated 6 August 1986 which grants autonomy to the Commissioner of Customs in matters of appointment and

discipline of customs personnel shall remain in effect;"

WHEREAS, Executive Order No. 39, dated August 6, 1986, authorized the Commissioner of Customs "(a) to appoint all Bureau personnel, except those appointed by the President; (b) to discipline, suspend, dismiss or otherwise penalize erring Bureau officers and employees; (c) to act on all matters pertaining to promotion, transfer, detail, reassignment, reinstatement, reemployment and other personnel action, involving officers and employees of the Bureau of Customs;"

WHEREAS, Section 79(C) of the Revised Administrative Code provides that "The Department Head shall have direct control, direction and supervision over all bureaus and offices under his jurisdiction and may, any provision of existing law to the contrary notwithstanding, repeal or modify the decisions of the chief of said bureau or offices when advisable in public interest;"

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WHEREAS, Section 37 of Act No. 4007 provides that "The provisions of the existing law to the contrary notwithstanding, whenever a specific power, authority, duty, function, or activity is entrusted to a chief of bureau, office, division or service, the same shall be understood as also conferred upon the proper Department Head who shall have authority to act directly in pursuance thereof, or to review, modify, or revoke any decision or action of said chief of bureau, office, division or service;"

WHEREAS, Section 550 of the Revised Administrative Code provides that it shall be the "duty" of chiefs of bureaus or offices, "under the immediate executive control, direction, and supervision of the proper Department Head, to exercise general authority in all matters embraced within the jurisdiction of the bureau or relating to the operation thereof and to see to the enforcement of all laws and regulations pertaining to it;"

WHEREAS, well-settled jurisprudence affirms that the "power of control of department heads includes the authority to modify, nullify or set aside the acts of their subordinate officials, and to substitute the judgment or discretion of the former for that of the latter, as well as the right to act in lieu of the aforementioned subordinate officials" (Province of Pangasinan vs. Secretary of Public Works and Communications, L-27861, Oct. 31, 1969, 30 SCRA 134, 139, and cases cited);

WHEREAS, well-defined jurisprudence asserts that "The Department Head can even directly exercise the powers of the chief of the bureau or office under him pursuant to Section 37, Act 4007" (Sichangco vs. Board of Commissioners of Immigration, L-23545, Nov. 7, 1979, 94 SCRA 61, 68),

including powers specifically granted by law to the bureau or office (Province of Pangasinan vs. Secretary of Public Works and Communications, supra);

WHEREAS, it is necessary to clarify the autonomous powers of the Commissioners of Internal Revenue and Customs under Letter of Instructions No. 204 and Executive Order No. 39 within the functional and structural organization of the Department of Finance under Executive Order No. 127; and

WHEREAS, "administrative acts and commands of the President touching on the organization or mode of operation of the Government x x x or governing the general performance of duties by public employees" shall be made effective in executive or administrative orders under Memorandum Order No. 1, dated January 7, 1958, as amended, governing general matters of procedure in the Office of the President (proper), in relation to Section 63 of the Revised Administrative Code;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, by virtue of the powers vested in me by law, do hereby order the Commissioners of Internal Revenue and Customs to exercise their powers under Letter of Instructions No. 204, dated July 24, 1974, and Executive Order No. 39, dated August 6, 1986, upon prior consultation with and prior clearance from the Secretary of Finance within the functional and structural organization prescribed under Executive Order No. 127, dated January 30, 1987.

The prerogative of the President on the appointment and discipline of Presidential appointees is hereby reserved for the Presidency.

This Administrative Order shall take effect immediately.

Done in the City of Manila, this 13th day of April, in the year of Our Lord, nineteen hundred and eighty-eight.

Corazon C. Aquino

By the President:

Catalino Macaraig, Jr.
CATALINO MACARAIG, JR.
Executive Secretary