

**REVENUE MEMORANDUM ORDER NO. 29-2022** issued on May 26, 2022 prescribes the policies and guidelines in the conduct of public auction of distrained personal properties, seized/levied real properties and acquired personal and real assets.

Disposal of distrained and levied properties taken for the payment of the tax liabilities of delinquent taxpayers shall be done by the following Offices:

- a. Regional Collection Division – Arrears Management Section (RCD-AMS);
- b. Large Taxpayers Collection Enforcement Division (LTCED);
- c. Large Taxpayers Division – Cebu/Davao; and
- d. Accounts Receivable Monitoring Division – Collection Enforcement Monitoring Section (ARMD-CEMS).

The Office which seized, distrained or levied the properties shall be the one to dispose the same, regardless of the geographical location of the property seized, provided the delinquent taxpayer-owner is within its jurisdiction. A Bids and Awards Committee (BAC) shall be created by the concerned Regional Office/Service for the purpose of the disposal of distrained or levied properties.

The public auction sale of personal or real property shall be done on an “AS IS WHERE IS BASIS”. Disposal of real properties shall be on a title by title basis, while by lot or on a per item basis may be done for personal properties, whichever is deemed most beneficial to the government and practicable by the concerned BAC. Prior Notice of Sale (NOS) shall be required as follows:

- a. Personal Properties – Posting of NOS (Annex 1) in not less than two (2) public places in the municipality or city where the distraint is made.
- b. Real Properties – Posting of the NOS in not less than two (2) public places in the municipality or city where the property is located and publication once a week for three (3) consecutive weeks in a newspaper of general circulation.

One place for the posting of NOS shall be at the office of the Mayor of the City or municipality where the property is located.

The auction sale shall be conducted on the date, time and place specified in the NOS, which shall contain the following information:

- a. Place of Sale;
- b. Date and Time of Sale;
- c. Owner of the Property;
- d. Description of Personal/Real Properties (Title/Tax Declaration No., Classification, Location, Area);
- e. Amount of Minimum Bid; and
- f. Authorized Signatory.

The sale of distrained, levied properties and acquired assets in a public auction shall be done through sealed bids to be witnessed by a representative of the COA. The COA representative shall be invited to attend and witness the auction sale. However, if the COA representative fails to attend, the auction sale may still proceed and shall be considered valid. The Minimum Bid/Floor Price shall be the following:

Personal Properties

- a. Appraised value determined by an appropriate independent appraiser contracted by BIR; or
- b. With respect to shares of stocks, the Minimum Bid/Floor Price shall be the book value based on the latest audited financial statements of the issuing company that are compliant with the fair value accounting under the Philippine Financial Reporting Standards (PFRS) prescribed by the Securities and Exchange Commission (SEC). Provided that the BIR may directly trade stocks listed in

the Philippine Stock Exchange (PSE) only through a PSE accredited/licensed stock broker.

Real Properties – For Seized Properties

- a. The latest Fair Market Value (FMV) as determined by the Commissioner based on the prevailing Department Order bearing on the published Schedules of Zonal Values of Real Properties; or
- b. The FMV shown in the latest tax declaration issued by the provincial, city or municipal assessor.

Only bids equal to or higher than the set floor price/minimum bid price shall be accepted by the concerned BAC.

A bid bond equivalent to 10% of the minimum bid price per item/lot shall be required from each bidder which shall accompany the Application for Bid, which shall form part of the payment of the winning bidder. The bid bond may be:

- a. Manager's check or cashier's check, payable and duly issued in the name of the "Bureau of Internal Revenue";
- b. Cash in Philippine currency; or
- c. Combination thereof.

Only the bid bond of the winning bidder shall be issued a corresponding Official Receipt by the Revenue Collection Officer/Special Collecting Officer (RCO/SCO). The amount of bid bonds posted by losing bidders shall be returned immediately after the public auction of a particular property.

Posting or presenting a bid bond in an amount less than 10% of the floor/ minimum bid price automatically disqualifies the prospective bidder from participating in the scheduled public auction.

In cases where only a single bidder participated in the public auction of distrained/levied property, the bid price on the said property offered by the single bidder may be accepted, with the official declaration thereafter that the single bidder as the winning bidder on the distrained/levied property, subject to the prescribed minimum amount of the bid price and posting of the ten percent (10%) bid bond thereon.

The distrained and levied property may be excluded from the auction at any time on or before the day fixed for the sale when the delinquent taxpayer satisfy any of the following:

- a. Payment of liability per Sec. 215 of the National Internal Revenue Code (NIRC);
- b. Availment of remedies under Sec. 204 of the NIRC;
- c. Availment of tax amnesty program; or
- d. Court orders/Injunctive.

With the settlement of the tax liability, either through full payment and/or approved settlement application, the BIR shall return the distrained personal properties to the delinquent taxpayer and/or effect the lifting of the Notice of Tax Lien (NTL)/ Notice of Levy (NOL) on the levied real properties with the concerned Registry of Deeds and/or Assessors Office.

For distrained properties, if the amount of bid is less than or equal to the Outstanding Tax Liability (OTL), including the delinquency penalties and interest that has accrued thereto up to the date of sale and the expenses of sale, require the winning bidder to pay in cash or in Manager's Check payable to the Commissioner of Internal Revenue. Prepare BIR Form No. 0605 for partial or full payment of the tax due and issue the corresponding Revenue Official Receipt (ROR) for the amount to be credited to the tax liability and Official Receipt for the amount of the expenses of sale.

If the amount of bid is more than the OTL, including the delinquency penalties and interest that has accrued thereto up to the date of sale and the expenses of sale, require the winning bidder to pay in cash or in Manager's Check payable to the Commissioner of Internal Revenue separately for the amount to be credited to the OTL, including the expenses of the seizure and sale, and to the delinquent taxpayer for the excess of the proceeds of the sale.

If the delinquent taxpayer is willing to accept the excess of the proceeds of the sale, require him/her to issue an acknowledgement receipt for the amount he will receive. If the delinquent taxpayer refuses to accept the same, refer the case to the Legal Division/Legal Group for consignment to the proper court. The delinquent taxpayer shall be notified of this action.

For sale of levied properties, require the winning bidder to open an escrow in an Authorized Government Depository Bank (AGDB) within the jurisdiction of the Office which conducted the sale or has jurisdiction over the delinquent taxpayer:

If the winning bid amount is greater than the OTL, the amount to be deposited in the escrow account shall be the amount to be credited to the tax liability including surcharges and interest plus expenses of the sale. The excess of the proceeds from the auction sale of real properties shall be returned to the delinquent taxpayer. If the delinquent taxpayer refuses to accept the same, refer the case to the Legal Division/Legal Group for consignment to the proper court. The delinquent taxpayer shall be notified of this action.

If the winning bid amount is equivalent to or less than the OTL, the amount to be deposited in the escrow account shall be the entire purchase price. A copy of the Escrow Account agreement and other pertinent documents required by the BIR relative to such agreement must be submitted by the winning bidder to the BIR as proof of payment for the auctioned property.

The escrow amount shall not be released for payment of the tax liabilities of the delinquent taxpayer until after the lapse of the one-year redemption period. If the delinquent taxpayer fails to exercise his/her/its right to redemption, a Notice of Release of Escrow Deposit shall be issued by the concerned winning bidder to the bank for the release of the escrow amount to the BIR before the issuance of a Deed of Conveyance to the winning bidder. The corresponding revenue official receipt (ROR) shall be issued by the Administrative and Human Resource and Management Division (AHRMD) of the concerned Regional Office where the auction sale was conducted on the release of the escrow amount as full or partial payment of the tax liability/ies of the delinquent taxpayer.

During the redemption period of the levied property sold at public auction, the delinquent taxpayer shall not be deprived of the possession of the said property and shall be entitled to the rents and other income therefrom until the expiration of the time allowed for its redemption.

Hereunder is the guidelines for the redemption of the auctioned real property in cases of the following scenarios:

- a. If the property is sold to the winning bidder where the purchase price is less than the OTL including the delinquency penalties, the amount to be paid by the delinquent taxpayer shall include the following:
  - Outstanding tax liability;
  - Delinquency increments;
  - Costs of seizure;
  - Maintenance and preservation of the levied property;
  - Cost of publication; and
  - All other expenses incurred prior to the auction sale.

The fifteen percent (15%) interest and escrow fee shall be refunded to the winning bidder.

- b. If the property is declared forfeited by the government for failure of bidding where the value of the property declared forfeited is enough to cover the OTL including the delinquency penalties, the delinquent taxpayer or his legal representative may redeem the property by paying the OTL, penalties and interest thereon computed from the date of delinquency to the date the property was sold in a public auction, the maintenance and preservation of the levied property, and the expenses of sale, within one (1) year from the date of declaration of forfeiture was registered with the Registry of Deeds/Assessor's Office who has jurisdiction over the property.
- c. If the property is declared forfeited by the government for failure of bidding where the value of the property declared forfeited is not enough to cover the OTL including the delinquency penalties, the delinquent taxpayer or his legal representative may redeem the property by paying the outstanding tax liabilities, penalties and interest thereon computed from the date of delinquency to the date of redemption after deducting the value of the property declared forfeited, the maintenance and preservation of the levied property, and the expenses of sale, within one (1) year from the date of declaration of forfeiture was registered with the Registry of Deeds/Assessors' Office who has jurisdiction over the property.

Payment of the redemption amount shall be in cash or manager's check. In case the delinquent taxpayer exercises the right of redemption, a Notice of Release of Escrow Deposit shall be issued by the BIR Office that conducted the auction to the bank and the escrow deposited shall be released by the bank to the winning bidder.

The Commissioner or his duly authorized representative shall purchase/forfeit the distrained/levied property in the name of the National Government in case of failure of bidding. A declaration of forfeiture shall be issued and filed with the Registry of Deeds/Assessors' Office who has jurisdiction over the property.

For the auction of distrained property, the BIR shall issue a Certificate of Sale of Personal Property to the winning bidder upon full payment of the bid amount or a Bill of Sale if the properties sold are stocks or other securities. The sale of personal property is absolute and such property is not subject to redemption by the delinquent taxpayer.

For the auction of levied Real Property, a Certificate of Sale of Real Property shall be issued to the winning bidder after full amount of the bid amount has been deposited in an escrow account by the winning bidder. A one-year redemption period is provided for the delinquent taxpayer. In case of non-redemption, a Deed of Conveyance shall be issued to the winning bidder.

The remedy by distraint of personal property and levy on real property may be repeated if necessary until the full amount of the tax due, including the penalties incident to delinquency that has accrued thereto has been paid by the delinquent taxpayer.

For the conduct of public auction of acquired assets, hereunder are the policies and guidelines to be followed:

- i. Disposal of Acquired Properties within Revenue Region (RR) No. 4 to 9B shall be done by Forfeited Asset Management Unit (FAMU). For other RRs, their respective Regional Collection Division shall be responsible for the disposal of acquired properties within their jurisdiction.
- ii. A Bids and Awards Committee-Acquired Assets (BAC-AA) shall be created both in the Regional Offices (Non-Mega Regions) and in the National Office (Mega

- Regions), to administer and supervise the disposal of all acquired assets thru public auction.
- iii. The public auction sale of the personal or real property shall be done on an “AS IS WHERE IS BASIS”. For real properties, the disposal thereof shall be on a title by title basis, while personal properties, the auction sale thereof may be done by lot or on a per item basis, whichever is deemed most beneficial to the government and practicable by the concerned BAC-AA, in consultation with the COA.
  - iv. The auction sale shall be conducted on the date, time and place specified in the NOS (Annex 5).
  - v. The NOS shall contain the following information:
    - a. Place of Sale;
    - b. Date and Time of Sale;
    - c. Description of Personal/Real Properties (Title/Tax Declaration No., Classification, Location, Area);
    - d. Amount of Minimum Bid;
    - e. Authorized Signatory; and
    - f. A statement that “THE GOVERNMENT RESERVES THE RIGHT TO REJECT OR CANCEL ANY OR ALL BIDS.”
  - vi. The sale of distrained, levied properties and sale of acquired assets in a public auction shall be done through sealed bids to be witnessed by a representative of the Commission on Audit (COA). A COA representative shall be invited to attend and witness the auction sale. However, if the COA representative fails to attend, the auction sale may proceed and shall be considered valid.
  - vii. The Minimum Bid/Floor Price for public auction of acquired assets shall be the highest among the following:
    - a. The latest FMV as determined by the Commissioner based on the prevailing Department Order bearing on the published Schedules of Zonal Values of Real Properties;
    - b. The FMV shown in the latest tax declaration issued by the provincial, city or municipal assessor;
    - c. Assess value as determined by an independent appraiser contracted by the BIR;  
Provided that an independent appraiser may only be contracted by the BIR when the FMV, as determined under paragraph (a), is already beyond three years and is due for updating as required under RMO No. 31-2019. Provided further, That for properties with improvement thereon, an independent appraiser shall be contracted by the BIR for the determination of the FMV thereof, notwithstanding the existence of an updated zonal value; or
    - d. With respect to shares of stocks, the Minimum Bid/Floor Price shall be the book value based on the latest audited financial statements of the issuing company that are compliant with the fair value accounting under the Philippine Financial Reporting Standards (PFRS) prescribed by the Securities and Exchange Commission (SEC). Provided that the BIR may directly trade stocks listed in the Philippine Stock Exchange (PSE), only through a PSE accredited/licensed stock broker.
  - viii. A bid bond equivalent to 10% of the minimum bid price per item/lot shall be required from each bidder which shall accompany the Application for Bid, which shall form part of the payment of the winning bidder. The bid bond may be:

- Manager's check or cashier's check, payable and duly issued in the name of the "Bureau of Internal Revenue";
- Cash in Philippine currency; or
- Combination thereof.

Only the bid bond of the winning bidder shall be issued a corresponding Official Receipt by the AHRMD/Special Collecting Officer (SCO). The amount of bid bonds posted by the losing bidders shall be returned immediately after the public auction of a particular property.

Posting or presenting a bid bond in an amount less than 10% of the floor/minimum bid price automatically disqualifies the prospective bidder from participating in the scheduled public auction.

- ix. In cases where only a single bidder participated in the public auction of acquired assets, the bid price on the said property offered by the single bidder may be accepted, with the official declaration thereafter that the single bidder as the winning bidder on the acquired assets, subject to the prescribed minimum amount of the bid price and posting of the ten percent (10%) bid bond thereon.
- x. The registered bidder who submits the highest bid shall be declared as the winning bidder, and shall be awarded the auctioned property. In case of tie-bids, a new sealed bidding shall be immediately conducted until such time that the same is broken.

The winning bidder shall pay the full amount of his bid within two (2) working days from receipt of the Notice of Award, either in cash or manager's check to the Commissioner of Internal Revenue or the Bureau of Internal Revenue, thru the office that conducted the auction.

Failure or refusal of the winning bidder to pay the full amount of the bid within the prescribed period, unless the Commissioner allows an extension of time to the winning bidder within which to fully pay the bid price, shall render the winning bidder in default and the award void. The bidder's bond shall be forfeited in favor of the government.

In case of default by the winning bidder, the next highest bidder, after being duly notified, may increase his/her bid to the amount equal or higher than that of the defaulting winning bidder and shall be awarded the auctioned property.

- xi. The previous owner or current occupant of the property or his duly authorized representative through a valid Special Power of Attorney (SPA) may increase his bid in an amount more than the offer of the declared highest bidder before the BAC-AA Chairman bangs the gavel for the declaration of the winning bidder, provided that:
  - a. He/she participated in actual bidding; and
  - b. Inserted in his/her bid envelope any of the following proofs of occupancy indicating the address of the subject property:
    - Barangay Certificate of Residency;
    - Valid government issued ID; and
    - Latest billing statement under the Bidder's Name from two (2) service providers.

In cases where both the previous owner and the current occupant participated in the auction sale, the previous owner shall be given priority over the current occupant. If the previous owner is deceased, the same privilege shall be given to the heirs.

xii. All awards made by BAC-AA shall be subject to prior clearance/confirmation by the Commissioner, as reflected in the Report of Acquired Assets Sold through Public Auction for Confirmation/Approval.

Any of the following instances shall constitute sufficient ground for the cancellation of the awards and/or contracts:

- Fraudulent acquisition of the property;
- Violation of the terms and conditions of the award;
- Violation of the terms and conditions in the Deed of Absolute Sale;
- Violation of existing laws, rules, regulations, and ordinances;
- Failure to pay the bid amount in full within two (2) days from receipt of Notice of Award; and
- Other instances analogous to the above-mentioned grounds.

Acquired real assets repossessed through cancellation of award or sale shall be re-disposed of in accordance with the same policies and procedures prescribed herein.

All the applicable taxes and expenses relative to the transfer of ownership, from Republic of the Philippines to the winning bidder, as well as the issuance of the necessary certificate of title and/or tax declaration shall be borne by the winning bidder.

The winning bidder shall be responsible for the ejection of informal settlers and/or occupants, if any, at his own expense, on the auctioned real property and in hauling/transporting the auctioned personal properties from the auction site to the intended place of destination.

The procedures for the public auction sale of distrained and levied properties and public auction sale of acquired assets, as well as the roles and responsibilities of concerned BIR officials/offices are specified in Section V of the Order.