

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

House Bill No. 3866



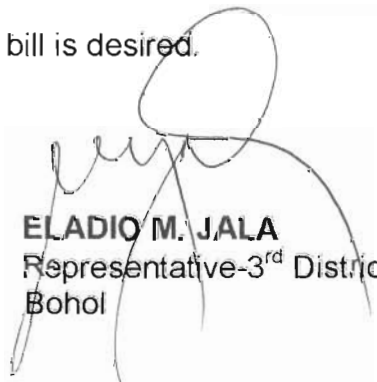
Introduced By Honorable ELADIO M. JALA

EXPLANATORY NOTE

It is known that taxes are essential to finance the government expenditures. It is noticed however that in the last few years, the government is spending more than what the tax agencies has been collecting resulting to budget deficit. To solve this problem the government borrows money from different sources but we allocate more of the budget to pay these debts. The government also introduces cost cutting and austerity programs but it resulted to non-implementation of infrastructure programs and sacrifices the funds allocated for social services.

To face current realities and priorities this bill seeks the creation of Internal Revenue Authority (IRA). This will not only provide the government with the necessary funds to finance its operations but would also facilitate the payment of its local and foreign debts. Furthermore, this bill seeks to attract foreign investments by giving the taxpayer efficient, effective, fair and courteous services. Moreover, this bill will not only provide for the full absorption of all the officials and employees of the Bureau of Internal Revenue (BIR) into the Internal Revenue Authority (IRA) but also for retirement and separation benefits over and above that found under the existing laws.

In view whereof, approval of this bill is desired.


ELADIO M. JALA
Representative-3rd District
Bohol

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Introduced By Honorable ELADIO M. JALA

AN ACT
CREATING THE INTERNAL REVENUE AUTHORITY, PROVIDING FUNDS
THEREFOR, AND FOR RELATED PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

ARTICLE I

General Provisions

SECTION 1. **Title.** - This Act shall be known as "Internal Revenue Authority Act of 2004".

SECTION 2. **Declaration of Policy.** - It is hereby declared the policy of the State:

- (a) to restructure its tax administration systems to collect the necessary taxes for the government to operate;
- (b) to provide the taxpayers efficient and effective service;
- (c) to develop and maintain the principles of honesty and integrity, fairness and equity of its personnel;
- (d) to encourage foreign and local investment in our country;
- (e) to develop potential tax resources with the end view of contributing to economic value added and
- (f) to improve the liquidity of the financial system which can be harnessed to propel economic growth.

SEC. 3. **Scope.** - This act shall provide for restructuring of BIR, its desired body structure under autonomous decentralized system of administration.

SEC. 4. **Definition of Terms.** - For purposes of this Act, the term:

- (a) **"BIR"** refers to the *Bureau of Internal Revenue* which is a government agency created under TITLE II, Sec. 16 of the Administrative Code of 1987 as amended by republic Act 8424.
- (b) **"Board"** refers to the Revenue Board which is the governing body of the authority composed of representatives from the government, as established in Sec. 9 of this Act.
- (c) **"Administrator"** refers to the Chief Executive Officer, who shall be the head of the Authority as provided in Sec. 16 of this Act.
- (d) **"DBM"** otherwise known as Department of Budget and Management, the government entity responsible for the formulation and implementation of National Budget created under Sec. 1, Title XVII of the Administrative Code of 1987.
- (e) **"DOF"** otherwise known as the Department of Finance refers to a government agency primarily responsible for the sound and efficient management of financial resources of the government, its subdivisions, agencies and instrumentalities.
- (f) **"Government"** – refers to government of the Republic of the Philippines.
- (g) **"IRA"** – is a body endowed with fiscal and administrative powers, hereinafter referred to as the Authority
- (h) **"NEDA"** – refers to the National Economic Development Authority is a government agency mandated to perform functions relative to development planning and policy formulation. It was re-organized under Executive Order No. 230 last July 22, 1987.
- (i) **"NIRC of 1997, as amended"** – refers to National Internal Revenue Code, as amended by R.A. 8424 otherwise known as 'Tax Reform Act of 1997'.
- (j) **"TAXPAYER"** – refers to any person natural or juridical subject to tax imposed by NIRC and other special laws.

ARTICLE II

Establishment of the internal Revenue Authority

SEC. 5. **Creation of the Internal Revenue Authority.** - There is hereby established a public organization to be known as the Internal Revenue Authority, herein referred to as the Authority, which is responsible for the implementation of internal revenue laws and shall be attached to the Department of Finance. It shall be organized within 180 days from the effectivity of this Act.

The Authority shall have its principal place of business in Metro Manila and may establish branches and offices in such other places as may be deemed necessary for the performance of its mandate.

SEC. 6. **Responsibility and Primary Objective.** - The primary responsibility and objective of the Authority is to raise revenues to finance the operations of the Government consistent with fiscal policy and revenue collection targets.

SEC. 7. **Powers and Functions.** - The Authority shall exercise the powers and duties heretofore exercised by the Bureau of Internal Revenue under the National Internal Revenue Code of 1997, hereinafter referred to as the Code, and other laws. Such powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgment in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Authority shall give effect to and administer the supervisory and police powers conferred to the Bureau of Internal Revenue, by the code and other laws.

In addition, the Authority shall have the corporate powers, to adopt, alter, and use an official seal which shall be judicially noticed, to enter into contracts, to lease, own or otherwise acquire real and personal property, and to hold, sell or otherwise dispose of the same, incur obligations and other liabilities necessary in the conduct of its operations; and to perform any and all acts necessary or proper to carry out the purposes of this Act; *Provided, however,* That amounts to be used for the repayment of loans and other obligations incurred under this provision, including the interest payment for such obligations, shall be taken from the budget the Authority shall receive from the Government under Section 8 of this Act.

SEC. 8. **Capitalization and Transfer of Assets.** - Upon effectivity of this Act, the sum of Fifteen Billion Pesos (P15,000,000,000.00) shall be appropriated by the government as the initial fund in addition to the unutilized funds of the BIR that will be transferred to the Authority. a) To ensure the payment of separation benefits of the officials and employees authorized under Section 26 of this Act the sum of Five Billion Pesos (P5,000,000,000.00) shall be appropriated for this purpose. b) All funds, properties and assets of the BIR shall automatically be transferred to the Internal Revenue Authority. c) A Committee composed of the chairpersons of the Committee on Ways and Means of the Senate and the House of Representatives shall determine the assets of the Bureau which shall be transferred to the Authority. The Committee shall be assisted by the Commission on Audit. d) The Committee shall complete its work within ninety (90) days from the commencement of its work. It shall submit a comprehensive report of its findings and justifications to congress and the President within thirty (30) days from the completion of its work.

SEC. 9. **Appropriations.** - The Authority shall receive an annual appropriation from the Government for the discharge of its mandate. Said appropriation shall not fall below two percent (2%) of all national internal revenue taxes, fees, and charges collected by the Authority in the immediately preceding year. The appropriation for the said amount shall be provided for and included in the annual General Appropriations Act.

The Authority shall likewise be entitled to five percent (5%) of annual collections in excess of its annual goal set by Development Budget Coordinating Council or DBCC.

SEC. 10. *Composition of the Internal Revenue Board.* - There is hereby created an Internal Revenue Board, herein referred to as Board, composed of:

- (a) Secretary of Finance – who shall be the chairperson *ex-officio*
- (b) Director General of the National Economic Development Authority *ex-officio*
- (c) Secretary of Budget and Management *ex-officio*
- (d) Administrator of the Authority
- (e) A representative of the employees to be elected by the Employees' Association of the Authority *ex-officio*

SEC. 11. *Qualifications of Members.*

- (a) The representative from the Employees' Association must be a permanent employee of the Authority, at least thirty-five (35) years of age, of good moral character, and known for patriotism and integrity. His membership to the board shall be geared towards ensuring the full cooperation of the employees to the policies of the Authority, as well as to assure that the concerns and welfare of the employees are duly heard and addressed by the Board.

SEC. 12. *Powers of the Internal Revenue Board.*

- (a) Adopt and promulgate policies and rules for the effective enforcement of the provisions of the Code, this Act, and other revenue laws.
- (b) Upon the recommendation of the Administrator, approve the annual and supplemental budget and expenditures of the Authority, and authorize such operating and capital expenditures of the Authority as may be necessary or proper for the effective management, operation and administration of the Authority.
- (c) Form committees, including executive committee, that shall assist the Board in the performance of its functions.
- (d) Appoint, upon the recommendation of the Administrator, top-management officials of the Authority down to the third highest level.
- (e) Establish a compensation plan for the Authority. The compensation plan shall be subject to periodic review by the Board no more than once every two (2) years without prejudice to yearly merit reviews or increase based on productivity and efficiency.
- (f) Exercise powers, and perform such other acts as may be necessary, useful, incidental or auxiliary to carry out the provisions of this Act, or to perform the purposes and objectives of this Act.
- (g) The Board shall initially fix the compensation of the two (2) deputy administrators based on an objective classification system at a sum commensurate to the importance and responsibilities attached to the position. Each member shall receive a *per diem* of Two Thousand Pesos (Php 2,000.00) for every meeting of the Board attended. *Provided, That per diem* shall not exceed Eight Thousand Pesos (Php 8,000.00) per

month regardless of the number of Board meetings attended; *Provided, further,* That the rate for *per diem* may be increased by the Board but no such increase shall be made within two (2) years from the passage of this Act and within two (2) years from the last increase.

SEC. 13. **Disqualifications.** – In addition to the disqualifications imposed by R.A. 6713, a member of the board shall be disqualified from being connected as director, partner, officer, lawyer, accountant, consultant or in any other capacity with individuals, general professional partnerships, or professional corporations.

SEC. 14. **Removal of the Representative from the Employees' Association.**

- (a) The representative from the Employees' Association shall have a term of office of two (2) years; *Provided,* no representative may be re-elected to the Board for more than two (2) consecutive terms.
- (b) The representative from the Employees' Association may only be removed from the Board for the following reasons:
 - (1) Expiration of term of office;
 - (2) Upon reaching the age of compulsory retirement;
 - (3) Death;
 - (4) Physical or mental incapacity that renders him or her incapable of properly discharging the duties and responsibilities of the membership in the Board and such incapacity has lasted for more than six (6) months;
 - (5) Commission of acts inimical to the interest of the service.
- (c) The vote of the majority of all the members of the Board shall be necessary in order to remove the representative from the Employees' Association for reasons due to the commission of acts inimical to the interest of the service.

SEC. 15. **Meetings.** - The Board shall meet at least twice a month. The Board may be called to a meeting by the chairperson or by three (3) other members of the Board.

The presence of three (3) members shall constitute a quorum: *Provided,* That in all cases the representative of the employees and the chairperson or chairperson's duly designated alternate shall be among the three (3) members constituting the quorum.

All decisions of the Board shall require the concurrence of at least three (3) members.

The Authority shall maintain and preserve a complete record of the proceedings of the Board, including the tapes and transcripts of the stenographic notes, either in their original form, in microfilm, or in any electronic medium. The records of the proceedings of the Board shall be made to the public in accordance with the rules and regulations that the Board may adopt, except the records of the proceedings where data identifiable with the returns and tax records of specific taxpayers or are otherwise confidential by the NIRC are discussed.

SEC. 16. *The Administrator; Qualifications; Appointment: Term of Office.* - The Authority shall be headed by a Chief Executive Officer, hereafter referred as Administrator, who shall be a citizen of the Philippines, of good moral character, with at least seven (7) years experience in management, field of taxation, finance, and public administration. The Administrator shall be appointed by the President of the Philippines. *Provided, That the incumbent Commissioner of the BIR of the date of the approval of this Act shall not be qualified to serve as Administrator of the Authority except in a holdover capacity pending the appointment of the Administrator. Provided, however, That no person may be appointed as Administrator for more than six (6) years.* In addition to other grounds for removal provided by law, the Administrator may be removed by a majority vote of all members of the Board for failure to meet the commitments in the performance of tax collection and administration unless such failure is attributable to a cause or causes beyond the Administrator's control.

SEC. 17. *Deputy Administrators; Appointment.* - The Administrator shall be assisted by two (2) Assistants referred as Deputy Administrators, who shall be appointed by the President of the Philippines from the career officials of the existing Bureau of Internal Revenue.

SEC. 18. *Powers and Functions of the Administrator* – The Administrator of the Authority shall exercise the powers and functions of the Commissioner of Internal Revenue under the NIRC of 1997. In addition, the Administrator shall:

- (a) Execute, administer and implement the policies and measures approved by the Board;
- (b) Direct and supervise the operation and administration of the Authority;
- (c) Represent the Authority in all dealings with offices, agencies and instrumentalities of the Government and with all persons and entities, public or private, domestic or foreign;
- (d) Direct and supervise the preparation of the agenda for the meeting of the Board, and to submit for the consideration of the Board such policies and measures as he or she believes necessary to carry out the purposes and objectives of this Act;
- (e) Promulgate, with the approval of the Board, all necessary rules and regulations for the effective enforcement of the provisions of the Code, this Act and other revenue laws;
- (f) Determine, with the approval of the Board, the organizational structure, including the geographical location of the branches and offices, of the Authority, reorganize its personnel, and issue such rules and regulations, as he or she may deem necessary or convenient for these purposes;
- (g) Establish, with the approval of the Board, a performance management system which will govern the selection, hiring, appointment, transfer, and promotion of all personnel. Such system shall aim to attract and retain professionally competent well-trained, honest, courteous and efficient personnel and to establish professionalism and excellence at all level of the Authority;

- (h) All positions in the Authority shall be governed by a compensation and position classification standards approved by the Board based on a comprehensive job analysis and audit of actual duties and responsibilities;
- (i) The Board shall have final appellate authority in cases involving promotion, transfer, assignment, or reassignment of personnel of the Authority and these actions are deemed made in the interest of the service;
- (j) The Administrator shall have the authority to delegate any of the foregoing powers to such official or officials of the Authority, as he or she may deem necessary. Such delegation of any of the above powers and duties, in a whole or in part, shall be documented and shall form part of the official records of the Authority. Should any of the above powers and functions be made permanent in nature, Board approval and authorization shall be secured before such delegation is made operative.

All references in the NIRC of 1997, as amended and other revenue laws, and in the rules and regulations issued therein to the Commissioner of the BIR, shall be deemed to refer to the Administrator. Henceforth, all powers and functions of the aforementioned Commissioner of the BIR are deemed transferred to the Administrator, where appropriate.

ARTICLE III

Human Resource Management

Sec. 19. **Policy on Selection and Hiring.** – The Authority shall be organized by the Board, by adopting if it so desires, an entirely new organizational structure and staffing pattern to suit the operations of the Authority under this Act. Selection of its personnel shall be based strictly on merit and fitness. New applicants may be subjected to integrity check to ensure their suitability for appointment to the new organization. The formulation of the organizational structure and staffing pattern shall be completed within six (6) months after the effectivity of this Act, and shall be fully implemented within six (6) months thereafter, both of which periods shall be collectively referred to as the transition period.

Civil service employees shall not be laid off, dismissed or removed as a result of any reorganization attendant to the establishment of the Authority, except for cause.

SEC. 20. **Absorption of BIR Employees.** - All employees of the BIR are deemed transferred to and absorbed by the IRA upon the effectivity of this Act.

SEC. 21. **Performance-Based Management System.** - This system shall govern the selection, hiring, appointment, transfer, and promotion of all personnel. Such system shall aim to attract and retain competent, well-trained, honest, courteous and efficient personnel at all levels of the Authority.

Appointments in the Authority shall be made in accordance with the Civil Service Laws, rules and regulations, *Provided*, That no qualification requirements for

the positions in the Authority shall be imposed, other than those set by the Administrator upon approval of the Board, as recommended to the Civil Service Commission, *Provided, Further*, That the Administrator, upon approval of the Board and consistent with existing laws, deploy and utilize all officers and employees under the organizational structure, staffing pattern and work force rationalization plan as approved, without need of obtaining prior approval from any and all other Government Agencies, so as not to affect nor disrupt the operations of the Authority, and to assure the efficient and effective discharge of the Authority's mandate as herein set forth.

SEC. 22. *Indemnification for Legal Defense Costs and Expenses.* - Section 227 of the NIRC of 1997, as amended is hereby amended to read as follows:

The Internal Revenue Authority shall indemnify members of the Revenue Board and other officials of the Authority, including personnel of the units performing assessment, audit and collection functions, against all costs and expenses reasonably incurred by such persons in connection with any civil or criminal action. Suit or proceeding to which they may be made a party by reason of their performance of their functions or duties, unless they are finally adjudged in such action or proceeding to be liable for gross negligence or misconduct.

In the event of settlement or compromise, indemnification shall provide only in connection with such matters covered by the settlement as to which the Authority is advised by external counsel that the persons to be indemnified did not commit any gross negligence or misconduct.

The cost and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Authority in advance of final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member of the Board, official or employee to repay the amount advance should it ultimately be determined by the Authority that said member of the Board, official or employee is not entitled to be indemnified as provided in this section.

SEC. 23. *Applicability of Prohibitions and Sanctions; Administrative Complaints.* - The penalties imposed on officials, agents or employees of the BIR who are guilty of the offenses enumerated in the NIRC of 1997, as amended and other statutes shall be applied to members of the Revenue Board and officials and employees of the Authority who are found guilty of such offenses.

For purposes of administrative complaints against officers and employees of the Authority, an internal audit to be created by and reporting directly to the Board shall conduct the investigations on such complaints. For this purpose, such internal audit unit shall be deemed deputized by the Office of the Ombudsman under R.A. 6770.

ARTICLE IV

Transitory Provisions

SEC. 24. *Transfer of Powers.* - All powers, duties and functions vested by law in the BIR shall be deemed transferred to the Authority. The powers, duties and functions vested by NIRC of 1997 and other revenue laws in the Deputy Commissioners, Service Chiefs, Assistant Service Chiefs, Revenue Regional Directors, Assistant Revenue Regional Directors, Chiefs and Assistant Chiefs of Divisions, Revenue District Officers, special deputies of the Commissioner, internal revenue officers and other employees of the BIR shall be deemed transferred to the officers and employees of the Authority who are appointed to exercise the same powers, duties and functions as the abovementioned BIR officers and employees: *Provided, however,* That pursuant to the power of the Administrator to determine the organizational structure of the Authority and to reorganize its personnel under Section 18 of this Act, the positions and bodies mentioned in Sections 7, 9, 10, 11, 13, 14, 15, 51(B), 58(A), 77(A), 81, 90(D), 103(B), 114(B), 128(B), 130(A), (3), 130(A)(4)(b), 163, 164, 166, 171, 172, 196, 200(C), 202, 204, 206, 207(A), 207(B), 209, 213, 214, 215, 227, 236(A), 236(B), 236(E), 236(F), 236(G), 236(J), 241, 242, 245(a), 245(e), 245(j), 248, and 271 of the NIRC of 1997 may be changed, abolished, combined with another position or body, or substituted with another and the powers and functions granted by these provisions to said positions and bodies may be performed by such officials or employees deemed appropriated by the Administrator: *Provided, further,* That for purposes of applications for abatement, cancellation, and compromise under 204 of the Code, the Revenue Board shall be authorized to fix the terms and conditions, including the levels of approving authority and the creation of committee to process said applications.

The Secretary of Finance shall create a transition committee to manage the organization of the Authority, including the initial selection and appointment of Authority Officials subject to confirmation once the Board has been constituted. The committee shall be headed by an Undersecretary of the Department of Finance and include, among others, the incumbent Commissioner of the Bureau.

SEC. 25. *Continuity of Functions.* - To minimize the disruption of the revenue administration during the transition period, all incumbent personnel in the BIR of the date of the approval of this Act shall maintain their positions and shall continue to exercise their duties and functions as personnel of the Authority.

SEC. 26. *Separation Benefits and Procedures.* - The national government is hereby authorized to provide funds for separation incentives of BIR officials and employees who shall retire or separated from the service on account of organization under this Act. All those BIR officials and employees who will choose to retire will be given as incentive five (5) months salary benefits, for every year of service in the Bureau, which shall be in addition to all gratuities and benefits to which they may be entitled under existing laws.

For those BIR officials and employees who are forty (40) years of age and above who will not meet new qualification standards and selection criteria shall retain their present position for three (3) years for them to achieve the necessary higher education and training to be qualified to the position classification system approved by the Board.

SEC. 27. *Implementing Rules and Regulations.* - The Revenue Board shall promulgate the implementing rules and regulations for this Act within ninety (90) days from its effectivity. Failure to promulgate such rules and regulations shall not affect the implementation of the self-executory provisions of this Act.

SEC. 28. *Repealing Clause* - The provisions of Section 18, 19, 20, and 22 of Chapter 4, Title II, Book IV of Executive Order No. 292, otherwise known as the Administrative Code of 1987, are hereby repealed. The provisions of Title I of NIRC

of 1997 insofar as they are inconsistent with the provisions of this Act are hereby repealed or amended accordingly. The other provisions of the Code, including Sections 51(B), 58(A), 77(A), 81, 90(D), 95, 103(B), 114(B), 128(B), 130(A)(3), 130(A)(4)(b), 163, 164, 166, 171, 172, 196, 200(C), 202, 204, 206, 207(A), 207(B), 209, 213, 227, 236 (A), 236(E), 236(F), 236(G), 236(J), 241, 242, 245(a), 245(e), 245(j), 248, 271, and 265 are hereby amended, and those of other laws, rules and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 29. ***Separability Clause*** – If any provision or section of this Act is held invalid, the other provisions and sections not affected thereby shall remain in full force and effect.

SEC. 30. ***Effectivity Clause*** – This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation.

APPROVED,