

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
Second Regular Session

House Bill NO. **5009**

Introduced by HON. EDGAR M. CHATTO
1ST DISTRICT, BOHOL

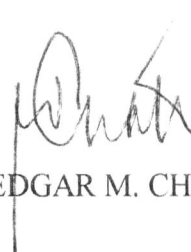
EXPLANATORY NOTE

Keeping the debt burden of the State to a manageable level is the one of the primary roles the government must assume, in compliance with the Constitutional mandate of insulating the people from the bondage of poverty, raise their standard of living and provide an improved quality of life for all. One of the essential prescriptions to realize this goal is for the government to engage in a deficit reduction strategy over the medium-term. This can be achieved through tax reforms and expenditure management.

Reorganizing the Bureau of Internal Revenue is a step forward in introducing tax reforms, being the institution mandated by law to initiate tax collection. To improve tax collections from 10.1% of Gross National Product (GNP) in 2001 to 12.4% by 2006 (Medium Term Philippine Development Plan), the Bureau must be strengthened as an organization. The tax collection effort of the BIR must be improved to reduce the widening fiscal deficit, resulting from the national government's debt of P3.4 trillion, accounting for 78% of GDP and more than five times the government revenues if creditors were to call the debts in. As a percentage of GDP, debt stock increased from 56.1% in 1998 to 78% in 2003.

This bill seeks to reorganize the BIR by introducing administrative and legal structures which will effectively improve its tax collection efforts and enable the government to reach a balanced budget position, before the fiscal deficit becomes insurmountable.

Support for the enactment of this bill is earnestly requested.


REP. EDGAR M. CHATTO

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
Second Regular Session

House Bill NO. **5009**

Introduced by HON. EDGAR M. CHATTO
1ST DISTRICT, BOHOL

AN ACT CREATING THE INTERNAL REVENUE AUTHORITY AND PROVIDING
FUNDS THEREFOR

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

Article I

General Provisions

SECTION 1. *Title.* – This Act shall be known as the “Internal Revenue Authority Act of 2005”.

SEC. 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 investments in our country;
- (e) to develop potential tax resources with the end in view of contributing to economic value added; and
- (f) to improve the liquidity of the financial system which can be harnessed to improve economic growth.

SEC. 3. *Scope.* – This act shall provide for restructuring of the Bureau of Internal Revenue (BIR), its desired organizational structure under an autonomous and decentralized system of administration.

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

- (a) "Board" – refers to the Revenue Board which is the governing body of the authority composed of representatives from the government, as established in Section 9 of this Act.
- (b) "Administrator" – refers to the Chief Executive Officer, who shall be the head of the Authority as provided for in Section 16 of this Act.
- (c) "DBM" – otherwise known as the Department of Budget and Management, the government entity responsible for the formulation and implementation of the national budget created under Section 1, Title XVII of the Administrative Code of 1987.
- (d) "DOF" – otherwise known as the Department of Finance, refers to the government agency responsible for the sound and efficient management of financial resources of the government, its subdivisions, agencies and instrumentalities.
- (e) "Government" – refers to the government of the Republic of the Philippines.
- (f) "IRA" – a body endowed with fiscal and administrative powers hereinafter referred to as the Authority.
- (g) "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 N0. 230 last July 22, 1987.
- (h) "NIRC of 1997, as amended" – refers to the National Internal Revenue Code, as amended by R.A. N0. 8424, otherwise known as the 'Tax Reform Act of 1997'.
- (i) "TAXPAYER" – refers to any person natural or juridical subject to tax imposed by the 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 DOF. 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 maybe 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 BIR under the NIRC of 1997, and other special laws. Such

- (a) "Board" – refers to the Revenue Board which is the governing body of the authority composed of representatives from the government, as established in Section 9 of this Act.
- (b) "Administrator" – refers to the Chief Executive Officer, who shall be the head of the Authority as provided for in Section 16 of this Act.
- (c) "DBM" – otherwise known as the Department of Budget and Management, the government entity responsible for the formulation and implementation of the national budget created under Section 1, Title XVII of the Administrative Code of 1987.
- (d) "DOF" – otherwise known as the Department of Finance, refers to the government agency responsible for the sound and efficient management of financial resources of the government, its subdivisions, agencies and instrumentalities.
- (e) "Government" – refers to the government of the Republic of the Philippines.
- (f) "IRA" – a body endowed with fiscal and administrative powers hereinafter referred to as the Authority.
- (g) "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 N0. 230 last July 22, 1987.
- (h) "NIRC of 1997, as amended" – refers to the National Internal Revenue Code, as amended by R.A. N0. 8424, otherwise known as the 'Tax Reform Act of 1997'.
- (i) "TAXPAYER" – refers to any person natural or juridical subject to tax imposed by the 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 DOF. 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 maybe 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 BIR under the NIRC of 1997, and other special laws. Such

- (c) Secretary of the DBM *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.* – 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 an 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 may be necessary, useful, incidental or auxiliary to implement the provisions 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 the same 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 last increase.

SEC. 13. *Disqualifications.* – In addition to the disqualifications imposed by R.A. N0. 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 Employee's Association.* –

- (a) The representative from the Employee's Association shall have a term of office of two (2) years; *Provided*, no representatives 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 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 public, in accordance with the rules and regulations that the Board may adopt, except the records of proceedings where data identifiable with the returns and tax records of specific taxpayers 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 the Administrator of the Authority except on 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 hereafter referred as Deputy Administrators, who shall be appointed by the President of the Philippines from the career officials of the existing BIR.

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 implement 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 levels 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 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 Resources 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. Within the transition period of six (6) months, the organizational structure and staffing pattern shall be completed, followed by the effectivity and full implementation of this Act.

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 Law, 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 workforce 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 further 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 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 advanced 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 unit, 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. N0. 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 the 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 Commissioners, 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), (4), (b), 163, 164, 166, 171, 172, 196, 200 (C), 202, 204, 206, 207 (B), 209, 213, 214, 215, 227, 236 (A), (B), (E), (F), (G), (J), 241, 242, 245 (a), (e), (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 as determined by the Administrator: *Provided, further,* That for purposes of applications for abatement, cancellation, an 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 a 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 DOF 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 shall be separated from the service on account of organization under this Act. All BIR officials and employees who will opt 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 BIR officials and employees who are forty (40) years of age and above who will not meet the 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 N0. 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, including Sections 51 (B), 58 (A), 77 (A), 81, 90 (D), 95, 103 (B), 114 (B), 128 (B), 130 (A) (3), (4), (b), 163, 164, 166, 171, 172, 196, 200 (C), 202, 204, 206, 207 (A), (B), 209, 213, 227, 236 (A), (E), (F), (G), (J), 241, 242, 245 (a), (e), (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,