

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS

First Regular Session

House Bill No. 2868

Introduced by the HONORABLE LUIS R. VILLAFUERTE

EXPLANATORY NOTE

The Constitutional principle of expeditious and timely resolution of justifiable cases has always been one of the primary aspirations of any judicial system. The Government must endeavor to continuously seek avenues to further empower judicial entities and quasi-judicial agencies with the end in view of providing the same with the necessary legislative, budgetary and logistical support to ensure that the conduct of judicial actions are not delayed nor denied to anyone.

Corollarily, the Bureau of Internal Revenue (BIR) has been mandated to be the lead agency in the collection of taxes. Legislative enactments have been approved by previous Congresses of the Philippines to provide for such powers and functions that have been deemed essential for the justifiable operations of the Bureau. Republic Act No. 8424, otherwise known as the "Tax Reform Act of 1997" stipulates that civil and criminal actions and proceedings, executed on behalf of the Government of the Philippines in matters relating to taxes and taxation shall be conducted by the legal officers of the BIR. In spite of the statutory directive of the said Law, it has become the customary procedure to refer cases to the Department of Justice (DOJ) for the determination of probable cause and the commencement of the appropriate legal actions. This is due to the lack of budgetary allocations that provide for additional manpower and logistical support and the absence of a clear-cut enabling provision of the law which vests exclusive jurisdiction to the BIR in the investigation, prosecution and management

of tax related cases, without need of referring such cases to the DOJ before they are filed at the appropriate courts.

Efforts by the BIR to pursue its mandate in the collection of taxes by actively pursuing tax evaders and other tax related cases have been unceasingly hindered and troubled by the present processes currently operating in our prosecution system. The practice of referring cases to the Department of Justice has allegedly given rise to opportunities in the past for corrupt practices. Scheming taxpayers purportedly connive with prosecutors of the DOJ to circumvent the law by delaying the resolution of cases pending before them, or by favoring said taxpayers in their decisions. In order to avoid such accusations, this bill has been presented for enactment as a remedial legislation.

With the foregoing premises considered, this proposed legislative measure seeks to amend Republic Act 8424 to enable, empower and authorize unequivocally the legal officers of the BIR, with the approval of the Commissioner of Internal Revenue, to exclusively investigate, prosecute, file and handle all cases and issues related to tax and taxation. It also seeks to simultaneously provide the Department of Finance the power and right to review every criminal complaint before proper cases are filed in the courts.

With the end in view of eliminating alleged avenues for collusion and corruption and eradicate bureaucratic red tape, and providing the appropriate agency of government the necessary assistance and support to further improve on the delivery of its services and the performance of its obligations, the immediate passage of this bill is earnestly requested.



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

AN ACT
MANDATING THE BUREAU OF INTERNAL REVENUE TO
EXCLUSIVELY INVESTIGATE, PROSECUTE AND HANDLE TAX AND
TAX RELATED CASES, AMENDING SECTION 220, CHAPTER II,
TITLE VIII OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS
THE "TAX REFORM ACT OF 1997," AND FOR OTHER RELATED
PURPOSES

1 **Section 1.** Section 220, Chapter II, Title VIII of Republic Act No. 8424,
2 otherwise known as the "Tax Reform Act of 1997," is hereby amended to
3 read as follows:

4 "Sec. 220. *Form (and Mode) of Proceeding in Actions Arising*
5 *under this Code.* - Civil and criminal actions and proceedings
6 instituted in behalf of the Government under the authority of this
7 Code or other law enforced by the Bureau of Internal Revenue shall
8 be brought in the name of the Government of the Philippines and
9 shall be (conducted) INVESTIGATED, PROSECUTED AND HANDLED
10 EXCLUSIVELY by legal officers of the Bureau of Internal Revenue
11 but no civil or criminal action for the recovery of taxes or the

1 enforcement of any fine, penalty or forfeiture under this Code shall
2 be filed in Court without the approval of the Commissioner. FOR
3 THIS PURPOSE, NO REFERRAL BY THE BUREAU OF INTERNAL
4 REVENUE TO THE SOLICITOR GENERAL, THE DEPARTMENT OF
5 JUSTICE OR ANY GOVERNMENT AGENCY NEED BE MADE IN
6 CONNECTION WITH A CIVIL OR CRIMINAL ACTION HANDLED BY
7 THE LEGAL OFFICERS OF THE BUREAU OF INTERNAL REVENUE.
8 THE BIR SHALL HAVE EXCLUSIVE AUTHORITY TO FILE ANY CIVIL
9 OR CRIMINAL CASE DIRECTLY WITH THE PROPER COURT FOR THE
10 RECOVERY OF TAXES OR ENFORCEMENT OF ANY FINE, PENALTY OR
11 FORFEITURE UNDER THIS CODE: *PROVIDED* THAT THE
12 DEPARTMENT OF FINANCE MAY HAVE THE POWER TO REVIEW
13 EVERY CRIMINAL COMPLAINT BEFORE IT IS FILED IN COURT.”
14

15 **Section 2. Repealing Clause.** – All laws, orders, issuances,
16 circulars, rules and regulations or parts thereof, which are inconsistent
17 with the provisions of this Act are hereby repealed or modified
18 accordingly.
19

20 **Section 3. Separability Clause.** – If any provisions of this Act is
21 declared unconstitutional or invalid, other parts or provisions hereof not
22 affected shall continue in full force and effect.
23

24 **Section 4. Effectivity.** – This Act shall take effect after fifteen (15)
25 days following its publication in at least two (2) newspapers of general
26 circulation.
27

28 *Approved,*