

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3674



Introduced by Representative Giorgidi B. Aggabao

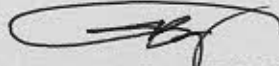
EXPLANATORY NOTE

Recent newspaper accounts have reported that the Bureau of Internal Revenue (BIR) failed to collect about P300 Billion of delinquent taxes. BIR Commissioner Kim Henares explained that the delinquent accounts include bad checks that date back prior to the present administration.

The Commission on Audit points this out in its report, as follows : "The balance of delinquent accounts of the BIR increased by 188 per cent in 2012, from that of 2011, from P103.757 billion to P298.981 billion.

This bill seeks to address this perennial problem of tax collection by granting a one-time tax amnesty on all unpaid and/or delinquent national internal revenue taxes imposed by the National Government for taxable years 2011 and prior years. This measure is seen as a good compromise for taxpayers to settle their unpaid and/or delinquent taxes and at the same time, help the government maintain, if not further improve its favourable investments credit rating.

Approval of this bill is earnestly sought.


GIORGIDI B. AGGABAO

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HOUSE BILL NO. **3674**

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AN ACT
ENHANCING REVENUE ADMINISTRATION AND COLLECTION
BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES
IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2012
AND PRIOR YEARS

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

SECTION 1. Coverage. — There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2012 and prior years, with or without assessments duly issued therefore, that have remained unpaid as of December 31, 2012: Provided, however, That the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

SEC. 2. Availment of the Amnesty. — Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2012, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within six months from the effectivity of the IRR.

SEC. 3. What to Declare in the SALN. — The SALN shall contain a declaration of the assets, liabilities and networth as of December 31, 2012, as follows:

1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business: Provided, That property other than money shall be valued at the cost at which the property was acquired: Provided, further, That foreign currency assets

and/or securities shall be valued at the rate of exchange prevailing as of the date of the SALN;

2. All existing liabilities which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade or business; and

3. The networth of the taxpayer, which shall be the difference between the total assets and total liabilities.

SEC. 4. *Presumption of Correctness of the SALN.* — The SALN as of December 31, 2012 shall be considered as true and correct except where the amount of declared networth is understated to the extent of thirty percent (30%) or more as may be established in proceedings initiated by, or at the instance of, parties other than the BIR or its agents: Provided, That such proceedings must be initiated within one year following the date of the filing of the tax amnesty return and the SALN. Findings of or admission in congressional hearings, other administrative agencies of government, and/or courts shall be admissible to prove a thirty percent (30%) under-declaration.

SEC. 5. *Grant of Tax Amnesty.* — Except for the persons or cases covered in Section 8 hereof, any person, whether natural or juridical, may avail himself of the benefits of tax amnesty under this Act, and pay the amnesty tax due thereon, based on his networth as of December 31, 2012 as declared in the SALN as of said period, in accordance with the following schedule of amnesty tax rates and minimum amnesty tax payments required:

(a) Individuals (whether resident or nonresident citizens, including resident or nonresident aliens), whichever is higher
5% or P50,000,
Trusts and Estates

(b) Corporations

(1) With subscribed capital of above P50 Million 5% or P500,000
whichever is higher

(2) With subscribed capital of above P20 Million up to P50 Million 5% or P250,000,
whichever is higher

(3) With subscribed capital of P5 Million to P20 Million 5% or P100,000,
whichever is higher

(4) With subscribed capital of below P5 Million 5% or P25,000,
whichever is higher

(c) Other juridical entities, including, but not limited to, cooperatives and foundations, that have become taxable as of December 31, 2012 whichever is higher.

(d) Taxpayers who filed their balance sheet/SALN, together with their income tax returns for 2012, and who desire to avail of the tax amnesty under this Act shall amend such previously filed statements by including still undeclared assets and/or liabilities and pay an amnesty tax equal to five percent (5%) based on the resulting increase in networth: Provided, That such taxpayers shall likewise be categorized in accordance with, and subjected to the minimum amounts of amnesty tax prescribed under the provisions of this Section.

(e) Taxpayers with foreign currency assets and/or securities abroad may avail of a tax amnesty at the rate equivalent to three (3 %) per cent of the peso amount at the prevailing exchange rate of the repatriated foreign currency assets and/or securities: Provided, That the said foreign currency assets and/or securities have been declared by the taxpayer in his or its SALN as of December 31, 2012; Provided, further, That same have been brought into the Philippines from December 31, 2012 up to the time of filing of the tax amnesty; Provided, furthermore, That a duly notarized sworn statement declaring the amount of repatriated foreign currency assets and/or securities and a certification of inward remittance thereof issued by the Bangko Sentral ng Pilipinas (BSP) shall be submitted by the taxpayer; Provided, finally, That the amended networth of the taxpayer as of December 31, 2012, net of such repatriated foreign currency assets and/or securities, may be subjected to the amnesty tax under subsections (a), (b), (c) and (d) hereof.

SEC. 6. Tax Amnesty for Taxpayers with Pending Tax Assessments Before the Bureau of Internal Revenue. -A taxpayer, whether natural or juridical with assessments for national internal revenue taxes, whether protested or pending with the BIR as of December 31, 2012 may avail of the tax amnesty equivalent to ten per cent (10%) of the basic tax assessed, exclusive of interest, surcharges and penalties, which shall be in addition to the amnesty tax imposed under Section 5 and/or Section 7 hereof.

SEC. 7. Tax Amnesty for Taxpayers with Final Assessment Notices and Tax Cases Pending before the Courts.- A taxpayer, whether natural or juridical, with a final assessment notice and pending cases *Immunities and Privileges.* - Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:

1. The taxpayer shall be immune from the payment of taxes, as well as addition thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2013 and prior years.

2. The taxpayer's Tax Amnesty Returns and the SALN as of December 31, 2012 shall not be admissible as evidence in all proceedings that pertain to taxable year 2012 and prior years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and except for the purpose of ascertaining the networth beginning January 1, 2012, the same shall not be examined, inquired or looked into by any person or government office. However, the taxpayer may use this as a defense, whenever appropriate, in cases brought against him.

3. The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined: Provided, That the Commissioner of Internal Revenue may authorize in writing the examination of the said books of accounts and other records to verify the validity or correctness of a claim for any tax refund, tax credit (other than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under existing laws.

All these immunities and privileges shall not apply where the person failed to file a SALN and the Tax Amnesty Return, or where the amount of networth as of December 31, 2013 is proven to be understated to the extent of thirty percent (30%) or more, in accordance with the provisions of Section 3 hereof.

SEC. 7. *When and Where to File and Pay.* — The filing of the Tax Amnesty Return and the payment of the amnesty tax for those availing themselves of the tax amnesty shall be made within six months starting from the effectivity of the IRR. It shall be filed at the office of the Revenue District Officer which has jurisdiction over the legal residence or principal place of business of the filer. The Revenue District Officer shall issue an acceptance of payment form authorizing an authorized agent bank, or in the absence thereof, the collection agent or municipal treasurer concerned, to accept the amnesty tax payment

SEC. 8. *Exceptions.* — The tax amnesty provided in Section 5 hereof shall not extend to the following persons or cases existing as of the effectivity of this Act:

1. Withholding agents with respects to their withholding tax liabilities;
2. Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
3. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act;

4. Those with pending cases filed in court involving violation of the Anti-Money Laundering Law;

5. Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of frauds, illegal exactions and transactions, and malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and

6. Tax cases subject of final and executory judgment by the courts.

SEC. 9. *Unlawful Divulgence of Tax Amnesty Return and Statement of Assets, Liabilities and Networth.* — Except as otherwise provided herein and in Section 14 hereof, it shall be unlawful for any person having knowledge of the Tax Amnesty Return and SALN filed pursuant hereto, to disclose any information relative to such declaration and statement, and any violation hereof shall subject the offender to the penalties under Section 10 (c) of this Act: Provided, however, That the Commissioner of Internal Revenue may disclose the content of the Tax Amnesty Return and the SALN upon the request of Congress pursuant to and in accordance with Section 20(A) or Section 290 of the National Internal Revenue Code of 1997, as amended.

SEC. 10. *Penalties.* —

1. Any person who, having filed a statement or Tax Amnesty Return under this Act, willfully understates his networth to the extent of thirty percent (30%) or more shall, upon conviction, be subject to the penalties of perjury under the Revised Penal Code.

2. The willful failure to declare any property in the statement and/or in the Tax Amnesty Return shall be deemed in prima facie evidence of fraud and shall constitute a ground upon which attachment of such property may be issued in favor of the BIR to answer for the satisfaction of any judgment that may be acquired against the declarant.

In addition to the penalties provided in paragraphs (a) and (b) above, immediate tax fraud investigation shall be conducted to collect all taxes due, including increments, and to criminally prosecute those found to have willfully evaded lawful taxes due.

In the case of associations, partnerships, or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge and employees responsible for the violation.

3. Any person who makes an unlawful divulgence of the Tax Amnesty Return or the SALN shall be penalized by a fine of not less than Fifty thousand pesos (P50,000.00) and imprisonment of not less than six years but not more than ten (10) years.

If the offender is an officer or employee of the BIR or any government entity, he/ she shall likewise suffer an additional penalty of perpetual disqualification to hold public office to vote and to participate in any public election.

SEC. 11. *Moratorium on the Grant of Tax Amnesty.* — In order to encourage and improve tax compliance by taxpayers, it is hereby declared the policy of this Congress that the grant of tax amnesty, in whatever manner and form, shall not henceforth be allowed: Provided, That this moratorium shall likewise apply to any administrative tax amnesty by the BIR.

SEC. 12. *Information Management Program.* — For purposes of enhancing revenue administration, revenue collection and policy formulation, the Department of Finance, in coordination with the BIR, Land Registration Authority, Department of Trade and Industry, Securities and Exchange Commission, Land Transportation Office, and other concerned agencies shall institute an Information Management Program for the effective use of information declared or obtainable from the Tax Amnesty Returns and the SALNs required to be filed under this Act.

SEC. 13. *Disposition of Proceeds from the Tax Amnesty.* — An amount equivalent to Four hundred million pesos (P400,000,000.00) of the collection from the tax amnesty herein granted shall accrue to the Department of Finance and shall be used exclusively for purposes of instituting a Management Information System as mandated under Section 12 of this Act.

SEC. 14. *Publication of List of Taxpayers and Filers.* — Following the implementation of the tax amnesty authorized and granted under this Act, the provisions of Sections 71 and 270 of the National Internal Revenue Code of 1997, as amended, and Section 26 of Republic Act No. 6388, to the contrary notwithstanding, the Commissioner of Internal Revenue shall, on or before May 31 following the close of each calendar year, prepare a list containing the names of all taxpayers, their gross income and amount of income taxes paid for the immediately preceding taxable year, and allow the publication of the same in at least two newspapers of general circulation or the Bureau of Internal Revenue website.

SEC. 15. *Implementing Rules and Regulations.* — The Secretary of Finance shall, in coordination with the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations within sixty (60) days from the effectivity of this Act.

SEC. 16. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in any two newspapers of general circulation, whichever comes earlier.

Approved,