

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Seventeenth Congress
First Regular Session

HOUSE BILL NO. 4888



Introduced by Representative **JOEY SARTE SALCEDA**

AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 6, 21, 22, 50, 51, 52, 74, 76, 109, 112, 114, 116, 128 AND 245 OF REPUBLIC ACT NO. 8424 OTHERWISE KNOWN AS "THE NATIONAL INTERNAL REVENUE CODE OF 1997", AS AMENDED, AND SECTION 5 OF REPUBLIC ACT 9335 OTHERWISE KNOWN AS THE "ATTRITION ACT OF 2005"

EXPLANATORY NOTE

1. **This tax reform is about the benefits that Filipinos will reap in the future from better infrastructure and social services, and, it is about the benefits that taxpayers here and now will experience from a more responsive tax system.**
2. The Tax Administration Reform Act, or TARA for short, is meant to complement TRAIN, to ensure that the train will run (i.e. that taxes are collected as projected) or by improving both the efficiency of tax administration and the tax-paying environment. This legislation may very well have been called the "ease of paying taxes" bill.
3. TARA must exist because of TRAIN, as the former must only implement a properly progressive and equitable tax system. "*TARA* *asa* *TRAIN*".
4. The Philippines has struggled with huge budget deficits since 1997, where deficits were often larger than 2% of GDP and reached a high of 5% in 2002. While the budgeted amount of public spending has not been overly ambitious, annual tax collection by the BIR and BoC were routinely below their respective collection targets. **Plans to increase government spending are constantly checked by these annual shortfalls and, mostly, by the inability to increase tax collections in a sustained way.**

5. **The Philippines fiscal health will be tested even further over the next few years due to the government's plan to significantly boost infrastructure spending.** A successful fulfillment of the government's plan will require tax collections to increase as a percentage of gross domestic product (GDP) is well above the historical high of 17.5 %, achieved in 1997.
6. **Tax authorities can achieve and sustain the needed rapid increases in tax collections only by directly confronting the existing large tax gap (the difference between actual and potential collections) or conversely, the narrow tax base.** Various estimates of the tax gap all show that only about half of potential taxes are in fact collected. Determined efforts to improve the effectiveness of BIR operations have yielded positive results, with tax effort increasing from 12.8% in 2012 to approximately 14.5% in 2015. Further improvements will require that remaining sources of revenue leakage be addressed through additional changes in tax law as well as tax administration. It is simply too easy for taxpayers to hide from the authorities, and - even if forced to register - to legally avoid liability. The tax laws effectively deal with wage and salary earners, but for others provide generous exemptions and exclusions that offer taxpayers an abundance of tax planning opportunities that enable them to significantly lower their taxes. And in addition, there are bank secrecy laws that severely constrain BIR's ability to uncover tax evasion.
7. **The TARA is designed to assist the government to help close this tax gap.** The efficiency gained by improving the BIR and the environment in which it operates will help close the tax gap between those currently paying taxes and those that manage to escape the tax net.

Analysis of the Tax System

8. **Closing the tax gap would increase the overall progressivity of the tax system.** A tax burden analysis shows that when the tax gap is distributed across the entire population by levels of income, the majority of the gap comes from higher income groups. Wage/salary earners and self-employed earn roughly the same amount of income, in total, yet a significantly higher amount of taxes are collected from the former. Wage and salary income is generally subject to withholding at source, and the tax gap for such persons is comparatively small. Closing the gap will impact higher income families more significantly than lower income families by collecting a higher percentage of taxes (through corporate and personal income taxes) from business and professional incomes.
9. **The removal of bank secrecy rules to allow revenue authorities to combat tax evasion, consistent with international practice, is a key step towards**

closing the tax gap. Despite the previously noted rough equality in the incomes of the two groups, wage earners currently account for 85% of income tax payments while self-employed and professionals (SEP) account for only 15%. In contrast to the withholding system applied to wage earners, SEPs file and pay under a voluntary payment system. The tax authorities must have access to critical bank account information to effectively monitor and go after SEPs and other high income individuals.

10. **The Optional Standard Deduction in its current form should only be available to truly small businesses.** In theory, the OSD was designed to make it easier for relatively small and unsophisticated taxpayers to comply with the tax laws without excessive costs of compliance. Larger businesses that employ and/or retain fulltime accountants are already quite capable of itemizing deductions available under the tax laws. Allowing these businesses the option to use OSD has little to no impact on their costs of compliance, but severely undermines the equity of the tax system by in effect granting additional deductible amounts to highly profitable firms. Many extremely large and highly profitable firms now report in their annual reports that they use the OSD, which means that they are paying corporate taxes at less than the 30% statutory rate.
11. **Proper implementation of an estimated tax system will benefit taxpayers as well as the government.** This will grant a simpler way for taxpayers to comply with filing and payment requirements during the fiscal year and provide government with a steady flow of taxes.
12. **The absence of a clear definition of "related parties" for tax purposes provides opportunities for taxpayers to engage in abusive transfer pricing schemes** where related businesses or groups of related businesses operate in and out of tax preferred regimes. Traditionally, this has been an important issue for combatting tax evasion for multinational corporations, but the proliferation of tax incentive here has created a plethora of tax avoidance opportunities for domestic businesses as well. Over the past 3 decades the Philippines has set up at least 12 such tax preferred zones to entice potential and additional investments. Foregone tax revenues resulting from such schemes are estimated to be between 0.5% - 1.0% of GDP. **A clearer working definition of related parties will partly help curb such abuses by making the nature of transactions between 2 entities more transparent.** The tax laws should also clarify the power of the BIR to 'look through' the substance of transactions between related parties to limit abusive practices by taxpayers.
13. **The BIR operates in an environment that limits rather than enables better performance.** An excessive focus on meeting tax collection targets - and the

limited resources available to BIR - are among major factors that constrain BIRs practices as well as its ability to perform its functions more efficiently and effectively. The act of broadening the tax base becomes a high risk activity; the tax authorities avoid taking administrative risks and instead choose to use its limited resources on a limited set of taxpayers that are generally known to be compliant. **The government must provide more resources, grant greater budget and management flexibility, and require greater accountability.** This will allow BIR to perform its functions in accord with practices of a modern tax administration.

Core Tax Reform Objectives and Recommendations

14. The Philippines must embark on a genuine comprehensive tax reform program at once, at the beginning of this new administration if its objectives are to be achieved. A genuine ctrp that seeks to (1) *increase tax revenues* to support greater budget expenditures driven by the President's 10-point socioeconomic agenda, (2) *redistribute the tax burden* to improve the fairness of the system and make it more competitive with those of its peers and, (3) *reduce the cost of compliance* which has consequences that are both broad and far reaching. The following are essential changes that must take place in order to achieve the above objectives.

I. To restore the fairness of the tax system (TRAIN)

- 1) Adjust personal income tax brackets for inflation (at the least) and index going forward.
- 2) Remove bank secrecy rules to allow revenue authorities to combat tax evasion, consistent with international practice.
- 3) Review VAT exemptions, and eliminate those that do not efficiently achieve clear social and economic objectives.
- 4) Adjust excise tax on petroleum products and provide for periodic adjustments for inflation going forward.
- 5) Institute a genuine taxpayer bill of rights.
- 6) Allow the use of the optional standard deduction (OSD) only by small businesses.

II. To make the tax system more competitive (TRAIN)

- 1) Lower the corporate income tax rate, closer to the ASEAN average.
- 2) Eliminate "nuisance" taxes – those which produce little revenue but high compliance costs for taxpayers.
- 3) Raise the VAT threshold.

III. To improve voluntary compliance (TARA)

- 1) Provide less burdensome compliance options for smaller taxpayers.
- 2) Make electronic filing and payment options available to all taxpayers and for all tax types.
- 3) Implement the estimated payments system for businesses in order to minimize fluctuations in revenue collections while lowering the cost of compliance.
- 4) Provide an effective and transparent tax appeals mechanism, independent from the BIR.
- 5) Evaluate tax and customs administrations through the use of a set of clearly defined, holistic and transparent performance indicators rather than non-transparent revenue targets.
- 6) Advance taxpayer segmentation in the BIR and, aside from the existing Large Taxpayers Unit, introduce units that will better serve the needs of micro, small and medium taxpayers.
- 7) Implement a modern and effective human resource management system at BIR.

IV. To improve revenue productivity (TARA)

- 1) Enact a clear definition of related parties as a step in controlling abuse from the use of transfer pricing schemes and adopt thin capitalization rules to limit earnings stripping
- 2) Treats all forms of tax expenditures in accordance with the budget process.
- 3) Limit fiscal incentives to those where benefits are greater than costs, and provide to only those investments that actually need them.

18. The tax system must be responsive to the needs of different taxpayer segments. The requirements of tax policy, tax rules and the tax environment must all be consistent with one another so that all taxpayers are properly served and are not unnecessarily burdened with requirements that are not commensurate to taxpayer capacity. Modernizing through a taxpayer segmentation approach will enable the BIR to efficiently implement a compliance strategy that matches risks to revenue and costs for both taxpayers and tax administration. The table below shows how this bill intends to implement taxpayer segmentation.

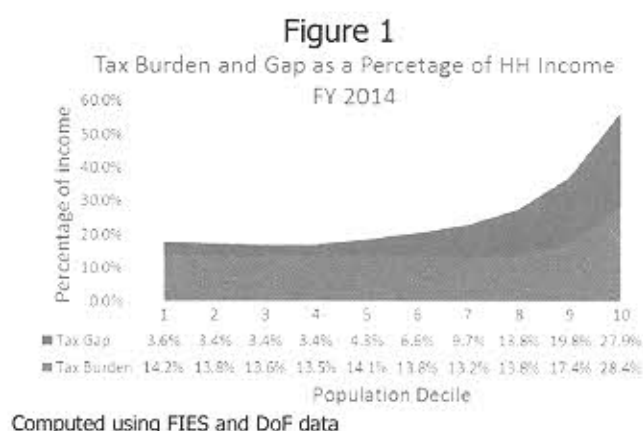
Table 1 Taxpayer Segmentation

Taxpayer Type	Micro	Small	Medium		Large TPs	Taxes
			PhP5-PhP10 million	above PhP10 million		
Individual	✓ Quarterly Est Tax ✓ or OSD	✓ Quarterly Est Tax ✓ or OSD	✓ Quarterly Actual		NA	income tax
Corporation	NA	✓ Quarterly Est Tax ✓ or OSD	✓ Quarterly Actual		✓ Quarterly Actual	
Individual	none	none	✓ Quarterly Actual ✓ or presumptive	✓ Monthly Est Tax ✓ Quarterly Actual	NA	VAT
Corporation	NA	none	✓ Quarterly Actual ✓ or presumptive	✓ Monthly Est Tax ✓ Quarterly Actual	✓ Monthly Est Tax ✓ Quarterly Actual	
Individual	none	✓ Quarterly Actual	none		NA	percentage tax
Corporation	NA	✓ Quarterly Actual	none		none	

The Philippines Tax Burden: Is it fairly distributed?

19. A tax burden analysis is meant to show the current distribution of the tax burden and how this affects the incomes of Filipino families. The discussion on the progressivity of the tax system is highlighted by “mapping” the tax gap across household incomes, essentially helping to answer the question: “which income groups contribute to the tax gap in the Philippines”? While the findings do not tell us anything about individual households, it instead relates to average household incomes and taxes.

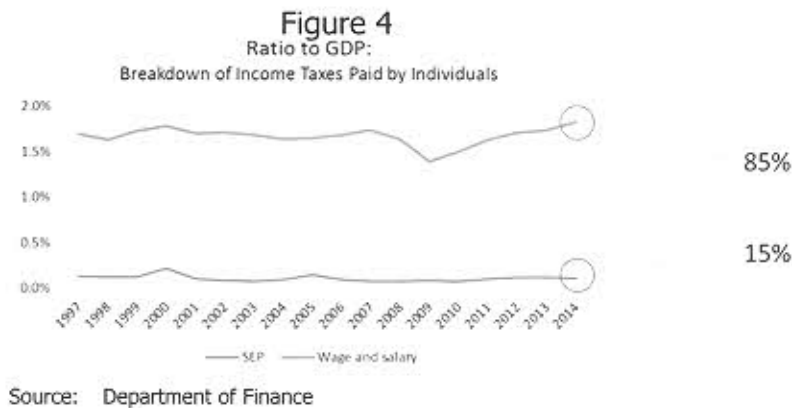
20. The analysis reveals that **the distribution of the tax burden is mildly regressive at lower incomes before rising progressively toward higher income households**, representing the richest 20%. However, the tax burden is slightly higher for the poorest decile of Filipino households, where the tax burden is about 14.2% of HH income, than it is for the next 7 population deciles (see Figure 1). The tax burden is found to be at its relative lowest for the 7th decile, where it is estimated to be about 13.2% of HH income. Although the personal income tax is conceptually paid beginning at the 7th decile, the progressive nature of the income tax only contributes to the overall progressivity beginning with the 9th and 10th deciles where the tax burden rises to 17.4% and 28.4% of household income, respectively. The bulk of the tax burden for the first 7 deciles comes from indirect taxes, VAT and excises.



21. A distribution of the tax gap from both direct (income taxes) and indirect (VAT and excise) taxes reveals that successful efforts to close these gaps could improve the overall general progressivity of the tax system. This would occur since a large portion of the tax gap is due to income taxes that should have been paid by higher income households, but are not paid now. While the tax gap for the poorest 10% of the population is only about 1/4 the size of the current tax burden for that group, the relative magnitude of the tax gap rises progressively to 1/3 of the current tax burden for the 5th decile, and rises further to at least equal the tax burden found for the 9th and 10th deciles. This tax burden analysis supports what many experts have long suspected, that the **majority of the tax gap comes from higher income Filipino households**. And finally, closing the tax gap will result in a more progressive overall tax system.

Inequity of the Personal Income Tax

22. While the non-adjustment in the values of the income tax brackets (referred to as bracket creep) has led to a comparatively regressive system where Filipinos are taxed with a higher rates at lower levels of income, when compared to its ASEAN counterparts, The availability of ways and schemes for self-employed and professionals to lower income tax payments, and/or to avoid paying the personal income tax has brought about a situation that relies (collects) heavily on the withholding tax system on wages (see figure 4)
23. There are also a number of schemes available, that help richer individuals “escape” paying under the PIT system by declaring income through alternative sources, resulting in lower taxes paid for every Peso earned (e.g. dividends, interest income and interest arbitrage, to name a few)



24. The income tax brackets must be adjusted, at the very least for inflation, in order to make jobs in the Philippines more competitive with its ASEAN neighbors. In this respect, harmonizing Philippine tax brackets with the ASEAN structure is more important than adjusting the top marginal rate downward as some experts suggest.

Domestic Transfer Pricing and the Need to “Define” Related Parties

25. Transfer pricing schemes are abusive in nature whenever profits are shifted out from a high tax regime to a low tax regime through the manipulation of a price or prices in a transaction or transactions between related parties. The manipulation of prices is done as a means to lower the overall tax due of a business enterprise.

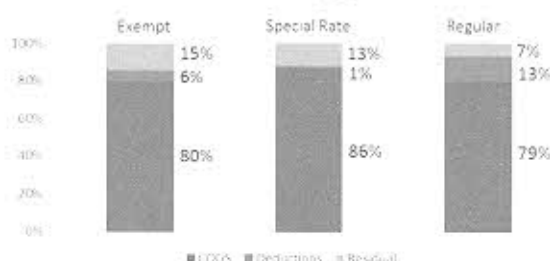
26. In the meantime, abusive domestic transfer pricing schemes may likely occur when related entities operate both inside and outside of a tax preferred zone. In the Philippines, a separate entity is normally set-up in a tax-free or tax-preferred zone, separately from its parent or related entity, with the latter being subject to regular or the statutory tax rate. Abusive domestic transfer pricing behaviors likely occur when profits are shifted into the zone by manipulating the prices of transactions between the related parties, with the intent to lower the combined tax due of the 2 related entities. These transactions may occur in different forms. They could, for example, arise through the supply of overpriced raw materials or through outsourced expensive consultancy/managerial services.

27. FY 2011 data of IPA registered Philippine enterprises are suggestive of transfer pricing abuse, as they tend to show a pattern in the cost structures of a particular business activity that is operated by either the same or related entities in various tax regimes (exempt, special rate and regular), but which consistently results in a lower combined tax due. To illustrate, the Figure 6 below shows that the regular activity (far right) of a firm paying the statutory corporate income tax rate of 30%, has a cost structure (total sales less COGS less Deductions) that enables it to have a tax

base equal to 7% of total sales (Residual). On the other hand, this same firm's total cost from its exempt activity is less where the tax rate is nil, resulting in a larger notional tax base of 15% of total sales. The cost structure of the special rate activity is also consistent with this behavior, where the relevant direct cost (COGS) is singularly highest, resulting in a lower tax base when compared to the entity's other 2 activities.

Figure 6

All IPAs, FY 2011
costs as a percentage of total sale



Source: Computed using data from DoF

28. Furthermore, the average effective tax rates¹ for the 3 activities are shown in table 4 below.

Table 4
Effective Tax Rates

Exempt	Special Rate	Regular
4.5%	0.7%	2.1%

Source: Computed using data from DoF

29. Finally, curbing abusive behavior from transfer pricing will require a broad set of reforms requiring both legislative and administrative changes. However, the **enactment of a clear, working definition of related parties for purposes of implementing tax laws, is a significant first step.** While the current tax code authorizes the commissioner of internal revenue with powers to allocate "income and deductions" between 2 entities that share common ownership (whether directly or indirectly), the law is substantially ambiguous to allow a more effective and transparent implementation. Furthermore, the law must be amended to allow a definition of related parties according to the degree of control or significance of influence that one entity has over another².

¹ Computed as the ratio of the notional tax due (tax base multiplied by the tax rate) and total sales.

² The Philippine Accounting Standards, patterned after the International Accounting Standards define related parties "when an investor has control over an entity (subsidiary) and has significant influence over another entity (associate), the investor, the subsidiary and the associate are related parties to each other".

30. Subsequent to this, the government must draft related transfer pricing rules that will
i) define the required transfer pricing documentation that firms submit to the Bureau of Internal Revenue if it wishes to transact with related parties, ii) transfer pricing audit manual, and iii) rules and procedures for implementing advanced pricing agreements.

31. Below are two examples operationalizing related party definitions:

- i. In 2008, China enacted its Enterprise Income Tax Law (EIT-Law), establishing new bases for tax authorities to manage tax issues related to transfer pricing, thin capitalization and general anti-avoidance rules (GAAR). Among others, the law established contemporaneous transfer pricing documentation requirements which governs related party transactions. Under the rules, **2 entities are treated as related parties when one entity owns more than 25% of the other, whether directly or indirectly.**
- ii. More recently in 2014, the Czech Republic's General Financial Directorate (GFD) introduced changes to the corporate income tax return to now mandate the reporting of intragroup transactions. Although containing less details than what is currently mandated in transfer pricing documentation of the EU, this report includes details on ownership (e.g. name and registration) and type of transactions (e.g. goods, services, payment of royalties, etc.). Finally, **the requirement introduced in the tax return is fully applicable to all transactions of companies that enjoy an investment incentive package(s).**

All told, TARA can raise revenues at 0.8% of GDP rising to 2% of GDP annually. This bill seeks to improve the Philippines tax system to fortify the state in the performance of its mandates and to rectify structural injustice. Given all these, the timely passage of this bill is earnestly sought.



REP. JOEY SARTE SALCEDA

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

SECTION 1. *Title.* – This Act shall be known as the "Tax Administration Reform Act" or its acronym TARA.

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

1. To provide a healthy environment for the tax paying public that protects and safeguards taxpayer rights and welfare, that assures the fair treatment of all taxpayers, that provides a cost-effective venue for taxpayers to challenge tax assessments before an objective panel which would ultimately pave the way towards understanding the behavior of taxpayers, and, is uninhibited by laws and rules that only serve to diminish its ability to detect and prosecute non-compliance.
2. To modernize tax administration and improve its efficiency and effectiveness by providing mechanisms that encourage proper compliance at the least cost and resources possible. This shall include, among others, the implementation of technology based filing and payment systems which would lessen the burden on the part of taxpayers in complying with their obligation.
3. To enact policies and procedures which are appropriate to different types of taxpayers. The State recognizes that the needs, capabilities and requirements for proper compliance are different across taxpayer sizes, from micro to small, medium to large taxpayers. These differences shall be taken into consideration in developing rules and regulations, which includes, among others, forms of tax returns, tax declarations and frequency of filing and payment.

4. To encourage officials and employees of the Bureau of Internal Revenue and Bureau of Customs to exceed their revenue targets and to perform their functions in the most efficient and effective manner possible.
5. To monitor the Bureau of Internal Revenue and the Bureau of Customs on the basis of a holistic set of performance indicators that reflect revenue collections, tax administration functions, and adherence to current pressing needs of the Bureaus, such as, but not limited to, encouraging tax compliance and the achievement of one hundred percent (100%) electronic filing.

SECTION 3. *Taxpayer's Bill of Rights*— In addition to the rights and remedies of the taxpayer provided for in the National Internal Revenue Code of 1997, as amended, the taxpayer shall have the following rights:

1. Right to pay no more than the correct amount of tax
2. Right to a fair and impartial appeal
3. Right to timely information
4. Right to quality tax education and service
5. Right to the consistent and transparent application of the law
6. Right to have the cost of compliance respected whenever tax rules are prepared and enforced
7. Right to privacy and confidentiality of information, unless authorized by the taxpayer or by law
8. Right to speedy disposition of cases, assessments, audits, investigation and other similar actions.
9. Right to finality of tax cases, including, but not limited to, agreement on the amount of tax due
10. Right to be protected and seek redress against malicious, excessive and wrongful assessments

SECTION 4. *Classification of Taxpayers* —Taxpayers shall hereby be classified as Micro, Small, Medium and Large, as such, the provisions of Section 21 and Section 245 of the National Internal Revenue Code of 1997, as amended, are hereby amended to read as follows:

"SECTION 21. Sources of Revenue AND CLASSIFICATION OF TAXPAYERS. —

"A. The following taxes, fees and charges are deemed to be national internal revenue taxes:

- "(a) Income tax;
- "(b) Estate and donor's taxes;
- "(c) Value-added tax;
- "(d) Other percentage taxes;

- "(e) Excise taxes;
- "(f) Documentary stamp taxes; and
- "(g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

"(B) CLASSIFICATION OF TAXPAYERS – TAXPAYERS SHALL BE CLASSIFIED INTO MICRO, SMALL, MEDIUM AND LARGE. THE SECRETARY OF FINANCE, UPON RECOMMENDATION OF THE COMMISSIONER, SHALL ESTABLISH A REASONABLE CRITERIA FOR CLASSIFYING TAXPAYERS INTO LARGE, MEDIUM, SMALL AND MICRO TAKING INTO CONSIDERATION GROSS SALES AND/OR RECEIPTS OF THE TAXPAYER, THE AMOUNT OF TAX PAID, AS WELL AS OTHER RELEVANT ECONOMIC FACTORS.

"PROVIDED, THAT MICRO AND SMALL TAXPAYERS SHALL BE TAXPAYERS WHOSE GROSS SALES AND/OR RECEIPTS DO NOT EXCEED THE AMOUNT PRESCRIBED UNDER SECTION 109 (W).

"PROVIDED, FURTHER, THAT A MORE SIMPLIFIED TAX RETURN SHALL BE USED FOR MICRO TAXPAYERS PRINTED WITH A TRANSLATION IN THE NATIONAL LANGUAGE. PROVIDED, FINALLY, THAT FOR MICRO TAXPAYERS ALL FEES, CHARGES OR OTHER PENALTIES IMPOSED UNDER THIS CODE SHALL NOT BE IMPOSED FOR THE FIRST VIOLATION. FOR THE SECOND (2ND) VIOLATION OF THE SAME OFFENSE, A REDUCED RATE EQUIVALENT TO FIFTY PERCENT (50%) SHALL BE IMPOSED. FOR THE THIRD (3RD) VIOLATION OF THE SAME OFFENSE, THE FULL RATE SHALL BE IMPOSED."

"SECTION 245. Specific Provisions to be Contained in Rules and Regulations. — The rules and regulations of the Bureau of Internal Revenue shall, among other things, contain provisions specifying, prescribing or defining:

x xx

"(j) The manner in which internal revenue taxes, such as income tax, including withholding tax, estate and donor's taxes, value-added tax, other percentage taxes, excise taxes and

documentary stamp taxes shall be paid through the collection officers of the Bureau of Internal Revenue or through duly authorized agent banks which are hereby deputized to receive payments of such taxes and the returns, papers and statements that may be filed by the taxpayers in connection with the payment of the tax: Provided, however, that notwithstanding the other provisions of this Code prescribing the place of filing of returns and payment of taxes, the Commissioner may, by rules and regulations, require that the tax returns, papers and statements and taxes of MICRO, SMALL, MEDIUM AND large taxpayers be filed and paid, respectively, through collection officers or through duly authorized agent banks. THE TAXPAYER'S RIGHT TO HAVE THE COST OF COMPLIANCE RESPECTED WHENEVER TAX RULES ARE PREPARED AND ENFORCED SHALL BE CONSIDERED WHENEVER THE COMMISSIONER PRESCRIBE NEW RULES ON FILING OF RETURNS AND PAYMENT OF TAXES. [Provided, further, That the Commissioner can exercise this power within six (6) years from the approval of Republic Act No. 7646 or the completion of its comprehensive computerization program, whichever comes earlier:] Provided, finally, That separate venues for the Luzon, Visayas and Mindanao areas may be designated for the filing of tax returns and payment of taxes by said large AND MEDIUM taxpayers.

~~["For purposes of this Section, 'large taxpayer' means a taxpayer who satisfies any of the following criteria;~~

~~"(1) Value-Added Tax (VAT) — Business establishment with VAT paid or payable of at least One hundred thousand pesos (P100,000) for any quarter of the preceding taxable year;~~

~~"(2) Excise Tax — Business establishment with excise tax paid or payable of at least One million pesos (P1,000,000) for the preceding taxable year;~~

~~"(3) — Corporate Income Tax — Business establishment with annual income tax paid or payable of at least One million pesos (P1,000,000) for the preceding taxable year; and~~

~~"(4) — Withholding Tax — Business establishment with withholding tax payment or remittance of at least One million pesos (P1,000,000) for the preceding taxable year.~~

~~Provided, however, that the Secretary of Finance, upon recommendation of the Commissioner, may modify or add to the above criteria for determining a large taxpayer after considering such factors as inflation, volume of business, wage and employment levels, and similar economic factors.]~~

"The penalties prescribed under Section 248 of this Code shall be imposed on any violation of the rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, prescribing the place of filing of returns and payments of taxes by large and medium taxpayers."

SECTION 5. *Estimated Tax System.* – The estimated tax system for income tax payments shall be implemented. For this purpose, the following provisions of the National Internal Revenue Code of 1997, as amended, are hereby amended as follows:

- A. Two additional definition is added to Section 22, as such, it is hereby amended to read as follows:

"SECTION 22. Definitions. — *When used in this Title:*

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(II) THE TERM "FILING OF RETURNS" SHALL REFER TO THE ACT OF ACCOMPLISHING THE PRESCRIBED TAX RETURN AND SUBMITTING THE RETURN TO THE BUREAU OF INTERNAL REVENUE AS REQUIRED UNDER THIS CODE OR AS PRESCRIBED UNDER EXISTING RULES AND REGULATIONS.

(JJ) THE TERM "PAYMENT OF TAXES" OR "REMITTANCE OF TAX" SHALL REFER TO THE ACT OF DELIVERING THE AMOUNT OF TAX DUE OR WITHHELD TO THE BUREAU OF INTERNAL REVENUE AS REQUIRED UNDER THIS CODE OR AS PRESCRIBED UNDER EXISTING RULES AND REGULATIONS."

- B. Section 51(C) (1) is hereby amended to read as follows:

"SECTION 51. Individual Return. —

"(A) Requirements. -

"(1) Except as provided in paragraph (2) of this Subsection, the following individuals are required to file [an] A QUARTERLY

ESTIMATED INCOME TAX RETURN AND AN ACCURATE FINAL
ADJUSTMENT AND ANNUAL income tax return:

- (a) Every Filipino citizen residing in the Philippines;
- (b) Every Filipino citizen residing outside the Philippines, on his income from sources within the Philippines;
- (c) Every alien residing in the Philippines, on income derived from sources within the Philippines; and
- (d) Every nonresident alien engaged in trade or business or in the exercise of profession in the Philippines.

"QUARTERLY ESTIMATED RETURNS SHALL NOT BE
CONSIDERED AS ACCURATE FINAL RETURNS."

XXX

"(C) When to File. —

"(1) The FINAL ADJUSTMENT AND ANNUAL return of any individual specified above shall be filed on or before the fifteenth (15th) day of April of each year covering income for the preceding taxable year. THE QUARTERLY ESTIMATED RETURNS SHALL BE FILED ON OR BEFORE THE FIFTEENTH (15TH) DAY OF MAY, THE FIFTEENTH (15TH) OF AUGUST AND THE FIFTEENTH (15TH) OF NOVEMBER OF EACH YEAR COVERING INCOME FOR THE FIRST, SECOND AND THIRD QUARTER OF THE CURRENT TAXABLE YEAR, RESPECTIVELY."

- C. Section 52 (A) is hereby amended to read as follows:

"SEC. 52. Corporation Returns. -

"(A) Requirements. - Every corporation subject to the tax herein imposed, except foreign corporations not engaged in trade or business in the Philippines, shall render, in duplicate, a true and accurate quarterly income tax return and final or adjustment return in accordance with the provisions of Chapter XII of this Title. The return shall be filed by the president, vice-president or other principal officer, and shall be sworn to by such officer and by the treasurer or assistant treasurer. PROVIDED, THAT, CORPORATIONS ALLOWED TO FILE AN ESTIMATED INCOME TAX UNDER THIS CODE, IN LIEU OF THE QUARTERLY INCOME TAX RETURN MENTIONED-ABOVE, MAY FILE AN ESTIMATED

INCOME TAX RETURN. QUARTERLY ESTIMATED RETURNS SHALL NOT BE CONSIDERED AS ACCURATE FINAL RETURNS."

D. Section 74 is hereby amended to read as follows:

"SECTION 74. Declaration of Income Tax for Individuals. —

"(A) In General. — Except as otherwise provided in this Section, every individual subject to income tax under Sections 24 and 25(A) of this Title, who is receiving self-employment income, whether it constitutes the sole source of his income or in combination with salaries, wages and other fixed or determinable income, shall make and file a declaration of his estimated income for the current taxable year on or before April 15 of the same taxable year. HOWEVER, IF THE ESTIMATED INCOME IS THE SAME AMOUNT AS HIS DECLARED INCOME AS CONTAINED IN HIS FINAL ADJUSTMENT AND ANNUAL RETURN, HE MAY USE THE SAME AS HIS DECLARATION. In general, self-employment income consists of the earnings derived by the individual from the practice of profession or conduct of trade or business carried on by him as a sole proprietor or by a partnership of which he is a member. Nonresident Filipino citizens, with respect to income from without the Philippines, and nonresident aliens not engaged in trade or business in the Philippines, are not required to render a declaration of estimated income tax. The declaration shall contain such pertinent information as the Secretary of Finance, upon recommendation of the Commissioner, may, by rules and regulations prescribe. An individual may make amendments of a declaration filed during the taxable year under the rules and regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

~~[(B) Return and Payment of Estimated Income Tax by Individuals. — The amount of estimated income as defined in Subsection (C) with respect to which a declaration is required under Subsection (A) shall be paid in four (4) installments. The first installment shall be paid at the time of the declaration and the second and third shall be paid on August 15 and November 15 of the current year, respectively. The fourth installment shall be paid on or before April 15 of the following calendar year when the final adjusted income tax return is due to be filed.]~~

(B[~~(C)~~]) Definition of Estimated INCOME Tax. — In the case of an individual, the term 'estimated INCOME tax' means the amount which the individual declared as income tax in his final adjusted and annual income tax return for the preceding taxable year minus the sum of the credits allowed under this Title against the said tax. [~~If, during the current taxable year, the taxpayer reasonably expects to pay a bigger income tax, he shall file a declaration during any interval of installment payment dates.~~] IF THE TAXPAYER REASONABLY EXPECTS TO PAY A LOWER OR HIGHER INCOME TAX FOR THE CURRENT TAXABLE YEAR OR FOR ANY PARTICULAR QUARTER THEREIN, HE SHALL FILE A DECLARATION STATING THE ESTIMATED AMOUNT OF INCOME TAX TO BE PAID. PROVIDED, THAT, ONLY INDIVIDUALS WITH AN ANNUAL GROSS SALES AND/OR RECEIPTS FOR THE PRECEDING TAXABLE YEAR WHICH DO NOT EXCEED THE AMOUNT PRESCRIBED UNDER SECTION 109 (W) IS ALLOWED TO PAY AN ESTIMATED TAX.

(C) FILING AND PAYMENT OF ESTIMATED INCOME TAX — THE AMOUNT OF ESTIMATED INCOME TAX AS DEFINED IN SUBSECTION (B) HEREOF SHALL BE PAID IN FOUR (4) INSTALLMENTS. THE INSTALLMENTS SHALL BE PAID AT THE TIME OF FILING AS PROVIDED UNDER SECTION 51(C)(1) OF THIS CODE. QUARTERLY PAYMENTS EQUIVALENT TO AT LEAST NINETY PERCENT (90%) OF ONE FOURTH (1/4) OF THE DECLARED ESTIMATED INCOME TAX FOR THE TAXABLE YEAR SHALL BE CONSIDERED AS PRIMA FACIE EVIDENCE OF CORRECT PAYMENT. NOTWITHSTANDING, THE APPROPRIATE FEES, CHARGES OR OTHER PENALTIES PROVIDED UNDER THIS CODE SHALL BE IMPOSED FOR ANY NON-DECLARATION OF INCOME REALIZED FOR THE QUARTER AS DETERMINED UPON EXAMINATION AFTER THE FILING OF THE FINAL ADJUSTMENT AND ANNUAL RETURN."

E. Section 76 is hereby amended to read as follows:

"SECTION 76. Fiscal Adjustment Return AND ESTIMATED INCOME TAX RETURNS. —

"A. Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the

total tax due on the entire taxable income of that year, the corporation shall either:

- "(1) Pay the balance of tax still due; or
- "(2) Carry-over the excess credit; or
- "(3) Be credited or refunded with the excess amount paid, as the case may be.

"In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor.

"B. DEFINITION OF ESTIMATED INCOME TAX. — THE TERM 'ESTIMATED INCOME TAX' MEANS THE AMOUNT WHICH A CORPORATION DECLARED AS INCOME TAX IN ITS FINAL ADJUSTMENT RETURN FOR THE PRECEDING TAXABLE YEAR MINUS THE SUM OF THE CREDITS ALLOWED UNDER THIS TITLE AGAINST THE SAID TAX. IF THE TAXPAYER REASONABLY EXPECTS TO PAY A LOWER OR HIGHER INCOME TAX FOR THE CURRENT TAXABLE YEAR OR FOR ANY PARTICULAR QUARTER THEREIN, HE SHALL FILE A DECLARATION STATING THE ESTIMATED AMOUNT OF INCOME TAX TO BE PAID. PROVIDED, THAT, ONLY THOSE CORPORATIONS WHOSE ANNUAL GROSS SALES AND/OR RECEIPTS FOR THE PRECEDING TAXABLE YEAR WHICH DO NOT EXCEED THE AMOUNT PRESCRIBED UNDER SECTION 109 (W) IS ALLOWED TO PAY AN ESTIMATED TAX."

C. FILING AND PAYMENT OF ESTIMATED INCOME TAX — THE AMOUNT OF ESTIMATED INCOME TAX AS DEFINED IN SUBSECTION (B) HEREOF SHALL BE PAID IN FOUR (4) INSTALLMENTS. THE INSTALLMENTS SHALL BE PAID AT THE TIME OF FILING AS PROVIDED UNDER THIS CODE. QUARTERLY PAYMENTS EQUIVALENT TO AT LEAST NINETY PERCENT (90%) OF ONE FOURTH (1/4) OF THE DECLARED ESTIMATED INCOME TAX FOR THE TAXABLE YEAR SHALL BE CONSIDERED AS PRIMA FACIE EVIDENCE OF CORRECT PAYMENT. NOTWITHSTANDING,

THE APPROPRIATE FEES, CHARGES OR OTHER PENALTIES PROVIDED UNDER THIS CODE SHALL BE IMPOSED FOR ANY NON-DECLARATION OF INCOME REALIZED FOR THE ANY QUARTER AS DETERMINED UPON EXAMINATION AFTER THE FILING OF THE FINAL ADJUSTMENT AND ANNUAL RETURN."

SECTION 6. *Allocation of Income and Deductions* – the provision of Section 50 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SECTION 50. Allocation of Income and Deductions. — In the case of two or more organizations, trades or businesses (whether or not incorporated and whether or not organized in the Philippines) owned or controlled OR INFLUENCED directly or indirectly by the same interests, the Commissioner is authorized to distribute, apportion or allocate gross income or deductions between or among such organization, trade or business, if he determines that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any such organization, trade or business. IN DETERMINING THE RELATIONSHIP BETWEEN THE ORGANIZATIONS, TRADES OR BUSINESS, THE COMMISSIONER SHOULD LOOK INTO, AMONG OTHERS, THE OWNERSHIP OF THE ORGANIZATION, TRADE OR BUSINESS. PROVIDED, THAT, IF OWNERSHIP OF AN ORGANIZATION, TRADE OR BUSINESS IS AT LEAST TWENTY PERCENT (20%) IN ANOTHER ORGANIZATION, TRADE OR BUSINESS, BOTH ORGANIZATIONS, TRADES OR BUSINESS SHALL BE REQUIRED TO SUBMIT THE NECESSARY REPORTS AS REQUIRED BY THE COMMISSIONER, SUCH AS, BUT NOT LIMITED TO, TRANSFER PRICING DOCUMENTATION. THE SECRETARY OF FINANCE, UPON RECOMMENDATION OF THE COMMISSIONER, SHALL ISSUE THE APPROPRIATE GUIDELINES FOR THE IMPLEMENTATION OF THIS PROVISION."

SECTION 7. *Value Added Tax and Percentage Tax* –

A. The required amount of gross sales and/or receipts in order to be exempt from Value Added Tax is hereby increased to Five million pesos (P5,000,000.00). As such, section 109 (W) of the National Internal Revenue Code, as amended, is hereby amended to read as follows:

"SECTION 109. Exempt Transactions. — The following shall be exempt from the value-added tax:

"109 (w) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of FIVE MILLION [~~One million five hundred thousand~~] pesos (P5,000,000.00 [~~P1,500,000~~]): *Provided*, That every three (3) years thereafter, the amount herein stated shall be adjusted to its present value using the Consumer Price Index, as published by the Philippine Statistics Agency (PSA);"

B. Issuance of Tax Credit Certificates for excess input VAT shall be removed and only cash refunds will be allowed. As such, Section 112 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SECTION 112. Refunds [~~or Tax Credits~~] of Input Tax. —

"(A) Zero-rated or Effectively Zero-rated Sales. — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for [~~the issuance of a tax credit certificate or~~] refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided*, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1),(2) and (B) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided*, further, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.

"(B) Capital Goods. — A VAT-registered person may apply for [~~the issuance of a tax credit certificate or~~] refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

"(C) Cancellation of VAT Registration. — A person whose registration has been cancelled due to retirement from or cessation

of business, or due to changes in or cessation of status under Section 106(C) of this Code may, within two (2) years from the date of cancellation, apply for ~~[the issuance of a tax credit certificate]~~ REFUND for any unused input tax. ~~[which may be used in payment of his other internal revenue taxes.]~~

"(D) Period within which Refund ~~[or Tax Credit]~~ of Input Taxes shall be Made. — In proper cases, the Commissioner shall grant a refund ~~[or issue the tax credit certificate]~~ for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.

"In case of full or partial denial of the claim for tax refund ~~[or tax credit]~~, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

"(E) Manner of Giving Refund. — Refunds shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of being countersigned by the Chairman, Commission on Audit, the provisions of the Administrative Code of 1987 to the contrary notwithstanding: Provided, That refunds under this paragraph shall be subject to post audit by the Commission on Audit."

C. The requirement of monthly payment of Value Added Tax for medium taxpayers whose gross sales or receipts is below Ten million pesos (P10,000,000.00) is hereby removed. As such, Section 114 (A) of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SECTION 114. Return and Payment of Value-added Tax. —

"(A) In General. — Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer. ~~[Provided, however, That VAT-registered persons shall pay the value-added tax on a monthly basis.]~~ PROVIDED, THAT, TAXPAYERS CLASSIFIED AS LARGE AND MEDIUM SHALL FILE A MONTHLY

ESTIMATED RETURN AND A QUARTERLY RETURN BASED ON THE ACTUAL AMOUNT OF HIS GROSS SALES OR RECEIPTS WITHIN TWENTY-FIVE (25) DAYS FOLLOWING THE CLOSE OF EACH MONTH. PROVIDED, FURTHER, THAT, TAXPAYERS CLASSIFIED AS MEDIUM TAXPAYERS WHOSE GROSS SALES OR RECEIPTS IS BELOW TEN MILLION PESOS (P10,000,000.00) SHALL NOT BE REQUIRED TO FILE A MONTHLY ESTIMATED RETURN AND SHALL BE ALLOWED TO USE A PRESUMPTIVE INPUT VALUE ADDED TAX EQUIVALENT TO SIXTY PERCENT (60%) OF THE TOTAL VAT-ABLE SALES FOR TAXPAYERS ENGAGED IN THE SALE AND/OR LEASE OF GOODS AND THIRTY ONE POINT FIVE PERCENT (31.5%) FOR TAXPAYERS ENGAGED IN THE PERFORMANCE OF SERVICES. THE SECRETARY OF FINANCE MAY ADJUST THIS RATE, UPON THE RECOMMENDATION OF THE COMMISSIONER.

"PROVIDED, FINALLY, REGARDLESS OF CLASSIFICATION OF A TAXPAYER, PAYMENT OF THE VALUE-ADDED TAX SHALL BE DONE AT THE TIME OF FILING AS SPECIFIED ABOVE."

"Any person, whose registration has been cancelled in accordance with Section 236, shall file a return the tax due thereon within twenty-five (25) days from the date of cancellation of registration: Provided, That only one consolidated return shall be filed by the taxpayer for his principal place of business or head office and all branches. Provided, that the taxpayer shall pay the VAT due at the time of filing."

D. The requirement of paying percentage tax for individuals and corporation classified as micro taxpayers shall likewise be removed. Accordingly, the provision of Section 116 of the National Internal Revenue Code, as amended, is amended to read as follows:

"SECTION 116. [Tax on Persons Exempt from Value-added Tax (VAT).] EXEMPTION — Any person whose sales or receipts are exempt under Section 109(z) of this Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) of his gross quarterly sales or receipts: Provided, That cooperatives shall be exempt from the three percent (3%) gross receipts tax herein imposed. PROVIDED, FURTHER, THAT TAXPAYERS CLASSIFIED AS MICRO SHALL BE EXEMPT FROM PAYMENT OF PERCENTAGE TAX.

E. The filing and payment of percentage tax for gross sales, receipts or earnings is hereby fixed on a quarterly basis, hence, the Section 128 (A) (3) of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:

"SECTION 128. Returns and Payment of Percentage Taxes. –

"A. Returns of Gross Sales, Receipts or Earnings and Payment of Tax. –

"(1) Persons Liable to Pay Percentage Taxes. - Every person subject to the percentage taxes imposed under this Title shall file a quarterly return of the amount of his gross sales, receipts or earnings and pay the tax due thereon within twenty-five (25) days after the end of each taxable quarter: Provided, That in the case of a person whose VAT registration is cancelled and who becomes liable to the tax imposed in Section 116 of this Code, the tax shall accrue from the date of cancellation and shall be paid in accordance with the provisions of this Section.

"(2) Person Retiring from Business. - Any person retiring from a business subject to percentage tax shall notify the nearest internal revenue officer, file his return and pay the tax due thereon within twenty (20) days after closing his business.

"(3) Exceptions. – EXCEPT FOR THE PERIOD FOR FILING AND PAYMENT PRESCRIBED IN PARAGRAPH (A)(1) HEREOF, [T]he Commissioner may, by rules and regulations, prescribe:

(a) The time for filing the return at intervals other than the time prescribed in the preceding paragraphs for a particular class or classes of taxpayers after considering such factors as volume of sales, financial condition, adequate measures of security, and such other relevant information required to be submitted under the pertinent provisions of this Code; and

(b) The manner and time of payment of percentage taxes other than as hereinabove prescribed, including a scheme of tax prepayment.

SECTION 8. *Tax Appeals Board* –

A. Composition, Organization and Functions of the Tax Appeals Board -

1. The Tax Appeals Board (Board) is hereby created under the Office of the President. The Board shall be composed of eighteen (18) members: one (1) sitting as Chairperson, one (1) as Co-Chairperson and sixteen (16) as members. The Chairperson, Co-Chairperson and members of the Board shall be appointed by the President. The Chairman shall have the rank and privilege of an undersecretary while the members shall have the rank and privilege of an assistant secretary.
2. The Board shall be divided into six (6) divisions with three (3) members per division. There will be two (2) divisions in Luzon, two (2) divisions in Visayas and two (2) divisions in Mindanao.
3. All members of the Board shall have at least ten (10) years experience in the field of taxation and must not have worked with Bureau of Internal Revenue, the Department of Finance or any of its attached bureaus or agencies for the last five (5) years prior to appointment.
4. The Board shall be supported by a technical working group which should comprise of one (1) representative from the Department of Finance, one (1) representative of the Bureau of Internal Revenue and two (2) permanent technical staff of the Board. Each division shall have at least three (3) sets of technical working groups.
5. The Board shall have ex-officio members subject to the following:
 - a) The private sector shall be represented in all divisions of the Board and shall be invited by the division during the deliberation of cases. Proof of notice of invitation is sufficient for the division to proceed with the deliberations. Failure to send out the invitation can be a ground to nullify the decision of the division. Absence of the private sector despite proof of invitation shall not affect the validity of the decision.
 - b) The private sector shall be composed of one (1) seat for an individual private tax practitioner, one (1) seat for law or accounting firms and one (1) seat for tax advocacy groups or organizations.
 - c) Accreditation of individuals and firms shall be done through presentation of proof of their license as a lawyer or as a Certified Public Accountant or registration as a firm.
 - d) Tax advocacy groups or organization need to present proof of existence for at least three (3) years for accreditation with the Board.
 - e) Accredited firms, groups or organizations shall submit a list the names of the representative of their firm, group or organization, in which case, the

list should not exceed three representatives who can alternately attend deliberations.

- f) The Board shall create a pool of ex-officio members, once a member is appointed, he shall become the permanent member unless for valid ground is removed by the Board upon proper notice or upon voluntarily resignation of the member.
 - g) All accreditations and appointment will be approved by the Board sitting en banc.
 - h) The private sector representatives shall be given honoraria as allowed under the law.
 - i) The private sector will not have the power to vote on the decisions of the division. However, they may make recommendations, dissenting, concurring or separate opinions.
6. The Board shall have the power to review, reverse or amend the decisions or resolutions of the Commissioner of Internal Revenue. A majority vote of each division is needed to reverse or modify the decision or resolution of the Commissioner of Internal Revenue.

B. *Jurisdiction* – The Board shall have jurisdiction over the following cases as herein provided:

- 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue.
- 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial.

C. *Power to Administer Oaths; Issue Subpoena; Punish for Contempt.* – The Board shall have the power to administer oaths, receive evidence, summon witnesses by subpoena, subject in all respects to the same restrictions and qualifications as applied in judicial proceedings. The Court shall, in accordance with Rule seventy-one (71) of the Rules of Court, have the power to punish for contempt for the same causes, under the same procedure and with the same penalties provided therein.”

D. *Procedure for appeal* –

1. A taxpayer aggrieved by the decision of the Commissioner of Internal Revenue, may within a period of thirty (30) days from receipt of the decision or after the lapse of the period of inaction as provided under the National Internal Revenue Code, as amended, file a notice of appeal to the Board and to the Commissioner of Internal Revenue. The taxpayer also has the option of filing an appeal directly to the Court of Tax Appeals without going through the Tax Review Board.
2. The notice of appeal filed before the Board and the Commissioner of Internal Revenue shall state if a decision was rendered or if the Commissioner failed to act within the period prescribed by law. In case a decision was rendered, a legible copy shall be attached to the notice of appeal. Within ten (10) days from receipt of the notice of appeal, the Commissioner of Internal Revenue shall elevate a copy of the decision and/or resolution to the Board, together with the entire records of the case with all pages appropriately numbered correlatively.
3. Within ten (10) days from the receipt of the records, the Board shall inform the taxpayer that it has received the records and shall set the case for preliminary conference. Only stipulations of facts and limitations of issues shall be discussed during the preliminary conference. The Board may, motu proprio or upon motion, initiate discussions on the payment of the correct taxes. Within fifteen (15) days from the termination of the preliminary conference, the parties shall file their respective position papers. Except upon meritorious grounds, the preliminary conference shall be terminated within thirty (30) days from date of the first preliminary conference hearing.
4. In case discussions on payments were conducted by the Board, the Commissioner of Internal Revenue or the taxpayer may move that the case be transferred to another division.
5. The filing of an appeal to the Board shall toll the running of the prescriptive periods to file an appeal before the Court of Tax Appeals.
6. The Board shall resolve all matters appealed to it within a period of one hundred eighty (180) days from date of termination of the preliminary conference. The party adversely affected by the decision of the Board shall have thirty (30) days to file an appeal before the Court of Tax Appeals from the time of receipt of the decision or the lapse of the one hundred eighty (180) day period to decide the case.
7. The Board shall have the power to promulgate its own rules and regulations to implement the provisions of Section 9 of this Act.

E. *Transparency* –

1. All decisions rendered by the Board shall be published in its official website and other medium as determined by the Board.
2. Recommendations, separate, concurring or dissenting opinions of ex-officio members shall form part of the decision that will be published.
3. All cases which were not acted upon shall likewise be published.
4. If there are any allegations of graft and corruption made by the taxpayer in the course of the proceedings, the Board shall refer the same to the Department of Finance.

F. *Funding* – The Board shall be provided with an initial annual allocation of Fifteen million pesos (P15,000,000.00) to be drawn from the budget of the Office of the President. Appropriations for the succeeding years shall be incorporated in the budget proposal for the Office of the President.

SECTION 9. *Taxpayers Assistance Programs* –

A. The Public Attorney's Office is hereby mandated to create a special unit within their offices dedicated to render free legal advice on tax concerns of taxpayers within their area of jurisdiction. Provided, that the taxpayer's gross sales or receipts do not exceed the amount prescribed under Section 109 (W).

B. The Secretary of Finance shall enhance the effectiveness of the Taxpayers Assistance Service of the Bureau of Internal Revenue.

SECTION 10. *Bank Secrecy Law*. – The provisions of the bank secrecy law, notwithstanding and in addition to the authority of the Commissioner of Internal Revenue to inquire into bank deposits for the purpose of determining the gross estate of a decedent and the financial incapacity of a taxpayer to pay his taxes if he applies for compromise, the Commissioner may also inquire into bank deposits of taxpayers without need of a court order. As such, the provision of Section 6 (F) of the National Internal Revenue Code, as amended, is hereby amended to read as follows:

SECTION 6. Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement. –

(F) Authority of the Commissioner to Inquire into Bank Deposit Accounts and Other Related information held by Financial Institutions. - Notwithstanding any contrary provision of Republic Act No. 1405, Republic Act No. 6426, otherwise known as the Foreign Currency Deposit Act of the Philippines, and other general or special laws, the Commissioner is hereby authorized to inquire into the bank

deposits and other related information held by financial institutions of:

xxx

(4) ANY TAXPAYER WHOSE RETURN IS SUBJECT TO EXAMINATION AND ASSESSMENT FOR THE PAYMENT OF THE CORRECT AMOUNT OF TAX, PROVIDED THAT, THERE IS PRIMA FACIE EVIDENCE THE TAXPAYER FILED A FALSE OR FRAUDULENT RETURN WITH INTENT TO EVADE TAX. PROVIDED, THAT, THE COMMISSIONER SHALL NOTIFY THE TAXPAYER OF HIS INTENTION TO LOOK INTO THE ACCOUNT OF THE TAXPAYER UNDER SUCH RULES AND REGULATIONS AS MAY BE PRESCRIBED BY THE SECRETARY OF FINANCE UPON RECOMMENDATIONS OF THE COMMISSIONER.

SECTION 11. Performance Target. – The Secretary of Finance, through the recommendations of the Commissioner of Internal Revenue and Commissioner of Customs, shall develop holistic performance indicators containing revenue collection performance (against target and against previous year), tax administration functions and other relevant priorities of the government that is not solely based on revenue collection, and, which shall be made as basis for attrition and incentive programs. As such, Section 5 of Republic Act No. 9335 otherwise known as the "Attrition Act of 2005" is hereby amended to read as follows:

SECTION. 5. Incentives to District Collection Offices. -

In the event that the BIR or the BOC fails to meet its [revenue] PERFORMANCE target by less than ten percent (10%) WHERE APPLICABLE, the revenue districts, in the case of the BIR, or the collection districts, in the case of the BOC, which exceed their respective allocations OR ASSIGNMENTS-of the PERFORMANCE [revenue] target [(allocated target)], shall be entitled to rewards and incentives (district incentive) amounting to ten percent (10%) of the excess over its allocated REVENUE target: Provided, however, That any BIR revenue district or BOC collection office which deliberately foregoes any revenue collection in a given year as part of a scheme to avoid a higher allocated target for the subsequent year shall not be entitled to a district incentive in such subsequent year notwithstanding its having exceeded its allocated target: Provided, further, That the allocated target of any such district shall have been reported to and validated by the DBCC as required in the immediately preceding section.

SECTION 12. *Separability Clause.* – If any provision of this Act is declared unconstitutional , the remaining parts or provision not affected thereby shall remain in full force and effect.

SECTION 13. *Repealing Clause.* – All laws, decrees, executive orders, implementing rules and regulations, issuances, or any part thereof inconsistent with the provisions of this Act are deemed repealed, amended or modified accordingly.

SECTION 14. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.