



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City



SEVENTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. **7105**

Introduced by
Representatives Pantaleon D. Alvarez, Rodolfo C. Fariñas and Dakila
Carlo E. Cua

**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 2017 AND PRIOR YEARS**

EXPLANATORY NOTE

The Philippines experienced poor tax collections in the previous years. This is attributed to many factors such as poor tax administration, low collection efficiency, corruption, and flawed tax policies. Dishonest taxpayers were able to collude with corrupt government officials and employees into getting away from paying the correct amount of taxes; while taxpayers who are willing to pay the correct taxes are discouraged from doing so by poor administrative policies.

The President's thrust in improving the state's economic standing resulted to the enactment of the recent Tax Reform and Inclusion Act (TRAIN). TRAIN was designed to combat corruption, simplify taxation, and improve tax collection.

This Bill is respectfully proposed by this representation in connection with the TRAIN. Aside from giving the Government

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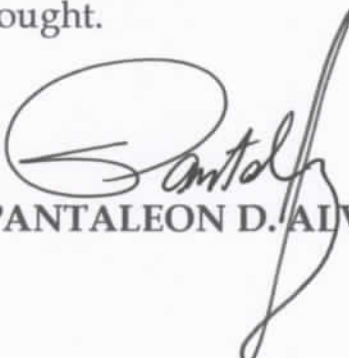
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flexibility in collecting taxes and immediate revenues, this Bill also seeks to expand the taxpayer base.

As we all know, there exist a vast number of unsettled taxes that cannot be legally collected by our executive agencies without going through the rigorous process laid down by law. Likewise, an unaccounted number of individuals who have not but are now willing to pay their taxes are discouraged by threat of prosecution.

Whether disputed and uncollected taxes are caused by erroneous assessment or by the fault of the taxpayer, this representation believes that it is high time for us to move forward, and provide taxpayers the opportunity to be responsible by offering them a clean-slate. In this regard, the immediate passage of this Bill is earnestly sought.

In view of the foregoing, immediate passage of this bill is earnestly sought.



PANTALEON D. ALVAREZ



RODOLFO C. FARIÑAS



DAKILA CARLO E. CUA



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*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 2017 and prior years, with or without assessments duly issued therefore, that have remained unpaid as of December 31, 2017: Provided, however, That the amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 8 hereof.

SECTION 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 Financial Statements or a Statement of Assets, Liabilities and Net worth (SALN) as of December 31, 2017, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and pay the applicable amnesty tax within two years from the effectivity of the IRR.

SECTION 3. *What to Declare in the SALN.* — The SALN shall contain a declaration of the assets, liabilities and net worth as of December 31, 2017, as follows:

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1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether capital or ordinary: Provided, That property other than money shall be valued at the cost at which the property was acquired, or its current Fair Market Value, whichever is higher: 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 net worth of the taxpayer, which shall be the difference between the total assets and total liabilities.

SECTION 4. *Presumption of Correctness of the SALN.* — The information provided by the taxpayer in the SALN shall be presumed true and correct. This presumption may only be discredited by substantial evidence showing that the amount of declared net worth is understated: Provided that, within one year following the date of filing of the tax amnesty return and the SALN, the BIR or its agents shall initiate the appropriate administrative proceeding as prescribed in the IRR to question the veracity of the SALN.

SECTION 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 after paying the amnesty tax prescribed hereunder:

- I. In cases where no assessments were issued against the taxpayer:
 - (a) Individuals (whether Filipino, alien, resident, or non-resident), Trusts, and Estates 8% of the Net worth or P10,000, whichever is higher
 - (b) Partnerships, Stock Corporations, and Taxable Cooperatives
 - (1) With capital, or subscribed capital of up to P10 Million 8% of the Net worth or P10,000, whichever is higher
 - (2) With capital, or capital of above P10 Million, but not exceeding P50 Million 8% of the Net worth or P100,000, whichever is higher

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| (3) With capital, or subscribed capital of above P50 Million, but not exceeding P100 Million | 8% of the Net worth or P1,000,000, whichever is higher |
| (4) With capital, or subscribed capital of above P100 Million | 8% of the Net worth or P10,000,000, whichever is higher |
- (c) Non-stock Corporations, Government Owned and Controlled Corporations Exercising Proprietary Functions 4% of the Net worth or P50,000, whichever is higher
- (d) Taxpayers who filed their balance sheet/SALN, together with their income tax returns for 2017, and who desire to avail of the tax amnesty under this Act shall amend such previously filed statements by including all undeclared and under-declared assets and/or liabilities and pay an amnesty tax equal to eight percent (8%) based on the resulting increase in net worth: 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.

II. In cases where assessments were issued against the taxpayer: Amnesty tax shall be equivalent to 50% of the basic tax assessed.

For purposes of this Act, "assessments" shall pertain to all types of tax assessments and claims including disputed assessments and assessments based on allegations of fraud. "Basic tax assessed", shall mean the latest amount of tax assessment issued by the BIR against the taxpayer, whether it be Preliminary, Final, or Final Decision on Disputed Assessment, exclusive of penalties and surcharges.

Provided: that, except for cases provided under Section 8 hereof, the pendency before the Court of Appeals or the Supreme Court of a tax case shall not prevent the taxpayer from availing of the tax amnesty granted in this Act.

SECTION 6. 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 exempted from the payment of taxes, as well as any addition thereto, and shall be immune from any 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 2017 and prior years.
2. The taxpayer's Tax Amnesty Returns and the SALN as of December 31, 2017 shall not be admissible as evidence in any and all proceedings that pertain to taxable year 2017 and prior years, insofar as such proceedings relate to internal revenue taxes, before any judicial, quasi-judicial or administrative bodies in which he is a defendant or respondent, and except for the purpose of ascertaining the taxpayer's net worth beginning January 1, 2018, the same shall not be examined, inquired or looked into by any person or government office. The taxpayer may use this provision 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.

The immunities and privileges provided under this Section shall not apply where the person failed to file a SALN or Tax Amnesty Return, or in the administrative cases initiated by the BIR to prove understatement of SALN as prescribed under Sections 3 and 4 hereof.

Any income or asset not included or declared in compliance with this Act shall not be covered by the provisions of this Act, and shall be subjected to taxation in accordance with the provisions of the National Internal Revenue Code and other special laws.

SECTION 7. *When and Where to File and Pay.* — The filing of the Tax Amnesty Return and SALN, and the payment of the amnesty tax for those availing themselves of the tax amnesty shall be made within two years 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 applicant. 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.

SECTION 8. *Exceptions.* — The tax amnesty provided this Act shall not cover 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 criminal cases filed in court 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
4. Those with pending cases involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practices Act and Republic Act No. 7078, otherwise known as "An Act Defining and Penalizing the Crime of Plunder";
5. Those with pending cases filed in court involving violation of the Anti-Money Laundering Act; and
6. Tax cases subject of final and executory judgment by the courts.

SECTION 9. *Unlawful Divulgence of Tax Amnesty Return and Statement of Assets, Liabilities and Net worth.* — 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.

SECTION 10. *Penalties.* —

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

- c. Any person who makes an unlawful divulgence of information contained in the Tax Amnesty Return or the SALN shall be penalized by a fine of not less than Two Hundred Fifty Thousand Pesos (P250,000.00) and imprisonment of not less than One year but not more than Six (6) 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.

SECTION 11. *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.

SECTION 12. *Integrated Information Management Program.* – For purposes of enhancing revenue administration, revenue collection and policy formulation, the Department of Finance, in coordination with the BIR, Department of Trade and Industry, and Securities and Exchange Commission, and other concerned government agencies shall institute an Integrated Information Management Program for the effective use of information declared or obtainable from the Tax Amnesty Returns and the SALN's required to be filed under this Act.

SECTION 13. *Disposition of Proceeds from the Tax Amnesty.* – An amount equivalent to Four Hundred Million Pesos (Php 400,000,000.00) 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 an Integrated Information System as mandated under Section 12 of this Act.

SECTION 14. *Authority of the Commissioner to Inquire into and Receive Information on Bank Accounts and Other Related Data Held by Financial Institutions.* – Notwithstanding any contrary provision of Republic Act No. 1405, otherwise known

as the 'Bank Secrecy Law', Republic Act No. 6426, otherwise known as the 'Foreign Currency Deposit Act of the Philippines', and other general and special laws, the Commissioner is hereby authorized to inquire into and receive information on the bank deposits and other related data held by financial institutions: Provided, That the Commissioner is authorized to inquire into and receive information on bank accounts and other related data held by financial institutions of a specific taxpayer or taxpayers upon an obligation to exchange tax information with a foreign tax authority, whether on request or automatic, pursuant to an international convention or agreement on tax matters to which the Philippines is a signatory or a party of: Provided, further, That the information obtained from the banks and other financial institutions may be used by the Bureau of Internal Revenue for tax assessment, verification, audit and enforcement purposes.

The exchange of information with a foreign tax authority, whether on request or automatic, shall be done in a secure manner to ensure confidentiality thereof under such rules and regulations as may be promulgated by the Secretary of Finance, upon recommendation of the Commissioner and in accordance with International Common Reporting Standards.

In case the exchange of information is upon request from a foreign tax authority, the Commissioner shall provide the tax information obtained from banks and financial institutions pursuant to a convention or agreement upon request of the foreign tax authority when such requesting foreign tax authority has provided the information as specified in Section 6 (F) of the National Internal Revenue Code, as amended, to demonstrate the foreseeable relevance of the information to the request.

The term "foreign tax authority", as used herein, shall refer to the tax authority or tax administration of the requesting State under the tax treaty or convention to which the Philippines is a signatory or a party of.

Likewise, the Commissioner is authorized to inquire into and receive information on bank accounts and other related data held by financial institutions of any taxpayer upon order of any court of competent jurisdiction in cases involving offenses covered under Sections 254 and 255 of the NIRC, as amended, subject to rules and regulations prescribed by the Secretary of Finance upon recommendation of the Commissioner of Internal Revenue.

SECTION 15. *Interconnectivity.* – In ascertaining the correctness of any return, or in making a return when none has been made, or in determining the liability of any person for any internal revenue tax, or in collecting any such liability, or in evaluating tax compliance, the Commissioner is authorized to obtain on a regular basis from any person other than the person whose internal revenue tax liability is subject to audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including government financial institutions and government-owned or -controlled corporations, any relevant

information such as, but not limited to, costs and volume of production, receipts or sales and gross incomes of taxpayers, and the names, addresses, and financial statements of corporations, mutual fund companies, insurance companies, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures or consortia and registered partnerships, and their members: Provided, That the BIR and other national government agencies, local government units (LGU), and government agencies and instrumentalities, including government financial institutions (GFI), and government-owned or -controlled corporations (GOCC), shall establish electronic interconnectivity that will allow exchange of information relevant to the needs of each agency as determined under joint rules issued by the heads of the said offices and the Secretary of Finance: Provided, further, That if the data requirements consist of information found in the income tax return of taxpayers, the requirements under Section 71 of the National Internal Revenue Code (NIRC), as amended, shall still be complied with.

SECTION 16. *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.

SECTION 17. *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,