



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 3671

Introduced by Representative Sharon S. Garin

EXPLANATORY NOTE

This measure is the complementary part of the vetoed provisions of the Republic Act No. 11213 otherwise known as the Tax Amnesty Act which was enacted last February 14, 2019.

This bill includes the General Tax Amnesty comprising unpaid national taxes for the period of December 2018 and prior years. It likewise establishes the automatic exchange of information between the agencies concerned as well as the relaxing of the bank secrecy law for those availing of the tax amnesty.

It then seeks to improve and increase the level of public tax consciousness, give errant taxpayers a chance to enter the tax system on a clean slate, widen the tax base and ultimately raise additional revenues for the government.

It is imperative to have a general tax amnesty program for the taxpayers' benefits but with the condition of lifting the bank secrecy and authorizing an automatic exchange of information for certain cases involving tax administration.

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


SHARON S. GARIN
Party-list, AAMBIS-OWA



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AN ACT
ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY
GRANTING AMNESTY ON ALL UNPAID IMPOSITIONS LEVIED BY
GOVERNMENT FOR TAXABLE YEAR 2017 AND PRIOR YEARS,
AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. – This Act shall be known as the “*General Tax Amnesty Act.*”

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the state to protect and enhance revenue administration and collection, and make the country’s tax system more equitable, by simplifying the tax compliance requirements. Towards this end, the State shall broaden the tax base by offering a general tax amnesty for all unpaid internal revenue taxes that will help cleanse, organize, and improve the Bureau of Internal Revenue’s database.

SEC. 3. Definition of Terms. – As used in this Act:

- (a) Basic tax assessed refers to the latest amount of tax assessment issued by the Bureau of Internal Revenue against the taxpayer, exclusive of interest, penalties, and surcharges.
- (b) Statement of Assets, Liabilities, and Networth refers to a declaration of the assets, liabilities, and networth as of December 31, 2018, 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 Statement of Assets, Liabilities, and Networth;

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.

(c) Total Asset refers to the amount of the aggregate assets whether within or without the Philippines, real or personal, tangible or intangible, or ordinary or capital.

SEC. 4. Coverage. – There is hereby authorized and granted a tax amnesty, hereinafter called General Tax Amnesty, which shall cover all national internal revenue taxes such as, but not limited to, income tax, withholding tax, capital gains tax, donor's tax, value-added tax, percentage taxes, excise tax, and documentary stamp tax collected by the Bureau of Internal Revenue, including value-added tax and excise taxes collected by the Bureau of Customs for taxable year 2017 and prior years, with or without assessments duly issued therefor, that have remained unpaid: *Provided*, however, That the General Tax Amnesty hereby authorized and granted shall not cover persons or cases enumerated under Section 10 of this Act.

SEC. 5. Entitlement Under the General Tax Amnesty. – Except for instances covered under Section 10 of this Act, any person, whether natural or juridical, may enjoy the immunities and privileges of the General Tax Amnesty by paying, at the taxpayer's option, an amnesty tax at:

- i. the rate of two percent (2%) based on the taxpayer's total assets as of December 31, 2018, as declared in the Statement of Total Assets; or
- ii. based on the taxpayer's total networth as of December 31, 2018, as declared in the Statement of Assets, Liabilities, and Networth filed pursuant to Section 6 of this Act, and in accordance with the following schedule of amnesty tax rates and minimum amnesty tax payments required:
 - a. Individual (whether resident or nonresident citizens, including resident or nonresident aliens), Trusts, and Estates – 5% or P75,000, whichever is higher.
 - b. Corporations:
 1. With subscribed capital of above P50 million – 5% or P1,000,000, whichever is higher.
 2. With subscribed capital of above P20 million up to P50 million – 5% or P500,000, whichever is higher.
 3. With subscribed capital of P5 million up to P20 million – 5% or P250,000, whichever is higher.

4. With subscribed capital of below P5 million– 5% or P100,000, whichever is higher.
- c. Other juridical entities, including but not limited to cooperatives and foundations, that have become taxable as of December 31, 2018 – 5% or P75,000, whichever is higher:

Provided, that if the taxpayer opts to pay the amnesty tax based on total networth, and the computed networth is negative, the taxpayer may still avail of the benefit of tax amnesty under this Act by paying the minimum amnesty tax.

SEC. 6. Availment of the General Tax Amnesty; When and Where to File and Pay. – Any person, natural or juridical, who wishes to avail of the General Tax Amnesty shall, within One (1) year from the effectivity of the Implementing Rules and Regulations, file with the appropriate office of the Bureau of Internal Revenue, which has jurisdiction over the taxpayer, a sworn General Tax Amnesty Return accompanied by a notarized Statement of Total Assets or notarized Statement of Assets, Liabilities, and Networth, as the case may be, as of December 31, 2018. The payment of the amnesty tax shall be made at the time the General Tax Amnesty Return is filed:

Provided, that the Revenue District Officer shall issue and endorse an Acceptance Payment Form, in such form as may be prescribed in the Implementing Rules and Regulations of this Act, authorizing the authorized agent bank, or in the absence thereof, the revenue collection agent or municipal treasurer concerned, to accept the amnesty tax payment:

Provided, further, That the availment of the General Tax Amnesty and the issuance of the corresponding Acceptance Payment Form do not imply the admission of any criminal, civil, or administrative liability on the part of the availing taxpayer:

Provided, furthermore, that if the tax amnesty is availed based on the period indicated hereunder, the taxpayer shall be entitled to the corresponding reduction in the total amnesty tax due:

- (a) If paid on or before the end of the third calendar month from the effectivity of the Implementing Rules and Regulations – 20%;
- (b) If paid after the end of the third calendar month until the end of the sixth calendar month from the effectivity of the Implementing Rules and Regulations – 15%;
- (c) If paid after the end of the sixth calendar month until the end of the ninth calendar month from the effectivity of the Implementing Rules and Regulations – 10%.

SEC. 7. Contents of the Statement of Total Assets and Statement of Assets, Liabilities, and Networth. –

- A. The Statement of Total Assets shall contain a declaration of the total assets as of December 31, 2017, as follows:
1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business:
 - a. Real properties shall be accompanied by a description of their classification, exact location, and valued at acquisition cost, if acquired by purchase, or the zonal valuation or fair market value as shown in the schedule of values of the provincial, city, or municipal assessors at the time of inheritance or donation, whichever is higher, if acquired through inheritance or donation;
 - b. Personal properties other than money, shall be accompanied by a specific description of the kind and number of assets (e.g. automobiles, shares of stock, etc.) or other investments, indicating the acquisition cost less the accumulated depreciation or amortization, or the corresponding book value for shares of stock, in proper cases, if acquired by purchase, or the fair market price or value at the date of the Statement of Total Assets, if acquired through inheritance or donation;
 - c. Assets denominated in foreign currency shall be converted into the corresponding Philippine currency equivalent, at the rate of exchange prevailing as of the date of the Statement of Total Assets; and
 - d. Cash on hand and in bank in Peso as of the date of the Statement of Total Assets, as well as cash on hand and in bank in foreign currency, converted to Philippine peso at the rate of exchange prevailing as of the date of the Statement of Total Assets.
- B. Statement of Assets, Liabilities, and Networth shall contain a true and complete declaration of assets, liabilities, and networth of the taxpayer as of December 31, 2017, as follows:
1. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business:
 - a. Real properties shall be accompanied by a description of their classification, exact location, and valued at acquisition cost, if acquired by purchase, or the zonal valuation or fair market value as shown in the schedule of the provincial, city, or municipal assessors, at the time of inheritance or donation, whichever is higher, if acquired through inheritance or donation;
 - b. Personal properties other than money, shall be accompanied by a specific description of the kind and number of assets (e.g. automobiles, shares of stocks, etc.) or other instruments, indicating the acquisition cost less the accumulated depreciation

or amortization, or the corresponding book value for shares of stock, in proper cases, if acquired by purchase, or the fair market price or values at the date of the Statement of Assets, Liabilities, and Networth, if acquired through inheritance or donation;

- c. Assets denominated in foreign currency shall be converted into the corresponding Peso currency equivalent, at the rate of exchange prevailing as of the date of the Statement of Assets, Liabilities, and Networth; and
 - d. Cash on hand and in bank in Peso as of the date of the Statement of Assets, Liabilities, and Networth, as well as cash on hand and in bank in foreign currency, converted to Philippine Peso at the rate of exchange prevailing as of the date of the Statement of Assets, Liabilities, and Networth.
- 2. All existing liabilities, which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade or business, disclosing or indicating clearly the name and address of the creditor and the amount of the corresponding liability.
 - 3. The total networth of the taxpayer, which shall be the difference between the total assets and total liabilities.

SEC. 8. *Presumption of Correctness of Statement of Total Assets, and Statement of Assets, Liabilities, and Networth.* – The Statement of Total Assets or the Statement of Assets, Liabilities, and Networth, filed at the option of the taxpayer, shall be conclusively presumed as true, correct, and final upon filing thereof, and shall be deemed complete upon full payment of the amount due.

The Acceptance Payment Form, and the General Tax Amnesty Return shall be submitted to the Revenue District Office after complete payment. The completion of these requirements shall be deemed full compliance with the provisions of this Act. A certificate of availment of the general tax amnesty shall be issued by the Bureau of Internal Revenue within Fifteen (15) calendar days from submission to the Bureau of Internal Revenue of the Acceptance Payment Form and the General Tax Amnesty Return. Otherwise, the duplicate copies, stamped as received, of the Acceptance Payment Form, and the General Tax Amnesty Return shall be deemed as sufficient proof of availment.

SEC. 9. *Immunities and Privileges.* – Those who avail of the General Tax Amnesty and have fully complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be entitled to the following immunities and privileges:

- (a) With respect to the years covered by the tax amnesty, the taxpayer shall be immune from the payment of taxes, as well as additions thereto, and from all appurtenant civil, criminal, and administrative cases and 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 and from such other investigations or suits insofar as they relate to the assets, liabilities, networth, and internal revenue taxes that are subject of the tax amnesty

- (b) Any information or data contained in, derived from, or provided by a taxpayer in the Tax Amnesty Return, Statement of Total Assets, or Statement of Assets, Liabilities, and Networth, as the case may be, and appurtenant documents shall be confidential in nature and shall not be used in any investigation or prosecution before any judicial, quasi-judicial, and administrative bodies, whenever appropriate, in cases brought against the taxpayer.
- (c) The books of accounts and other records of the taxpayer for the years covered by the tax amnesty availed of shall not be examined by the Bureau of Internal Revenue: 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 when the taxpayer failed to file a General Tax Amnesty Return and a Statement of Total Assets, or Statement of Assets, Liabilities, and Networth, as the case may be.

Upon full compliance with all the conditions set forth in this Act and payment of the corresponding general amnesty tax, the amnesty granted under this Act shall become final and irrevocable.

SEC. 10. *Exceptions.* – The General Tax Amnesty under this Act shall not extend to the following:

- (a) Withholding tax agents who withheld taxes but failed to remit the same to the Bureau of Internal Revenue;
- (b) Taxpayers with cases pending in appropriate courts involving:
 - 1. Those that fall under the jurisdiction of the Presidential Commission on Good Government;
 - 2. Unexplained or unlawfully acquired wealth under Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, and Republic Act No. 7080 or an Act Defining and Penalizing the Crime of Plunder;
 - 3. Violation of Republic Act No. 9160, otherwise known as the Anti-Money Laundering Act, as amended;
 - 4. Tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended; and

5. Felonies of Frauds, Illegal Exactions and Transactions, and Malversation of Public Funds and Property under Chapters III and IV of the Revised Penal Code;

(c) Tax cases that have become final and executory; and

(d) Delinquencies and assessments that have become final and executory.

SEC. 11. Confidentiality and Non-use of Information and Data in the Statement of Total Assets and Statement of Assets, Liabilities, and Networth. –

Any information or data contained in, derived from, or provided by a taxpayer in the Tax Amnesty Return, Statement of Total Assets, or Statement of Assets, Liabilities, and Networth, as the case may be, and appurtenant documents shall be confidential in nature and shall not be used in any investigation or prosecution before any judicial, quasi-judicial, or administrative bodies.

Any Statement of Assets, Liabilities, and Networth, financial statements, information sheets, and any such other statements or disclosures that may have been previously submitted by the taxpayer as required by existing laws are deemed to have been amended by the Tax Amnesty Return, and/or the Statement of Total Assets or Statement of Assets, Liabilities, and Networth, as the case may be, filed under this Act and may not be subject of any investigation or prosecution or be used in any investigation or prosecution before any judicial, quasi-judicial and administrative bodies.

SEC. 12. Unlawful Divulgence of Tax Amnesty Return and Other Relevant Documents. – It shall be unlawful for any person having knowledge of the Tax Amnesty Return and appurtenant documents, to disclose any information relative thereto, and any violation hereof shall be penalized by a fine of One Hundred Fifty Thousand Pesos (P150,000), and imprisonment of not less than six (6) years but not more than Ten (10) years: *Provided*, that if the offender is an officer or employee of the Bureau of Internal Revenue or any government entity, the penalties under Section 270 of the National Internal Revenue Code of 1997, as amended, shall apply: *Provided*, further, that the offender shall likewise suffer an additional penalty of perpetual disqualification to hold public office.

SEC. 13. Disposition of Proceeds from the Tax Amnesty. – All proceeds from this Tax Amnesty shall be allocated for the social mitigating measures and the Government's BUILD BUILD BUILD infrastructure projects, as provided under Section 82 of Republic Act No. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion ("TRAIN") Act.

SEC. 14. Section 6 of the NIRC of 1997, as amended, is hereby further amended to read as follows:

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

A. Examination of Returns and Determination of Tax Due. – After a return has been filed as required under the provisions of this Code, the Commissioner or

his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax, **NOTWITHSTANDING ANY LAW REQUIRING THE PRIOR AUTHORIZATION OF ANY GOVERNMENT AGENCY OR INSTRUMENTALITY:** *Provided, however,* That failure to file a return shall not prevent the commissioner from authorizing the examination of any taxpayer.

x x x

B. x x x

C. x x x

x x x

F. 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 or special laws, the Commissioner is hereby authorized to inquire into **AND RECEIVE INFORMATION ON** the bank deposits and other related [information] **DATA** held by financial institutions of:

(1) A decedent to determine his gross estate.

(2) Any taxpayer who has filed an application for compromise of his tax liability under Section 204(A)(2) of this Code by reason of financial incapacity to pay his tax liability.

In case a taxpayer files an application to compromise the payment of his tax liabilities on his claim that his financial position demonstrates a clear inability to pay the tax assessed, his application shall not be considered unless and until he waives in writing his privilege under Republic Act No. 1405, Republic Act No. 6426 [otherwise known as the 'Foreign Currency Deposit Act of the Philippines'], or under other general or special laws, and such waiver shall constitute the authority of the Commissioner to inquire into the bank deposits of the taxpayer.

(3) A specific taxpayer or taxpayers, **UPON AN OBLIGATION TO EXCHANGE TAX INFORMATION WITH A FOREIGN TAX AUTHORITY** [subject of a request for the supply of tax information from a foreign tax authority] pursuant to an international convention [or], agreement, **OR TREATY** on tax matters to which the Philippines is a signatory or a party of, **DULY RATIFIED AND CONCURRED IN BY THE SENATE OF THE PHILIPPINES:** *Provided, That* the information obtained from the banks and other financial institutions may be used by the Bureau of Internal Revenue (BIR) for tax assessment, verification, audit, and enforcement purposes.

[In case of a request from a foreign tax authority for tax information held by banks and financial institutions, the] The exchange of information **WITH A**

FOREIGN TAX AUTHORITY shall be done **IN ACCORDANCE WITH INTERNATIONAL COMMON REPORTING STANDARDS AND** 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.

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 such foreign tax authority when such requesting foreign tax authority has provided the following information to demonstrate the foreseeable relevance of the information to the request:

- a. The identity of the person under examination or investigation;
- b. A statement of the information being sought, including its nature and the form in which the said foreign tax authority prefers to receive the information from the Commissioner;
- c. The tax purpose for which the information is being sought;
- d. Grounds for believing that the information requested is held in the Philippines or is in the possession or control of a person within the jurisdiction of the Philippines;
- e. To the extent known, the name and address of any person believed to be in possession of the requested information;
- f. A statement that the request is in conformity with the law and administrative practices of the said foreign tax authority, such that if the requested information was within the jurisdiction of the said foreign tax authority then it would be able to obtain the information under its laws or in the normal course of administrative practice and that it is in conformity with a convention or international agreement; and
- g. A statement that the requesting foreign tax authority has exhausted all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

The Commissioner shall forward the information as promptly as possible to the requesting foreign tax authority. To ensure a prompt response, the Commissioner shall confirm receipt of a request in writing to the requesting tax authority and shall notify the latter of deficiencies in the request, if any, within sixty (60) days from receipt of the request.

If the Commissioner is unable to obtain and provide the information within ninety (90) days from receipt of the request, due to obstacles encountered in furnishing the information or when the bank or financial institution refuses to furnish the information, he shall immediately inform the requesting tax authority of the same, explaining the nature of the obstacles encountered or the reasons for refusal.

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.

(4) ANY TAXPAYER UPON ORDER OF ANY COMPETENT COURT IN CASES INVOLVING OFFENSES COVERED UNDER SECTION 254 OF R.A. 8424, AS AMENDED, SUBJECT TO RULES AND REGULATIONS PRESCRIBED BY THE SECRETARY OF FINANCE UPON RECOMMENDATION OF THE COMMISSIONER OF INTERNAL REVENUE."

SEC. 15. Report to Oversight Committee. – The Commissioner shall submit to the Oversight Committee referred to in Section 290 of the NIRC of 1997, as amended, through the Chairpersons of the Committee on Ways and Means of the Senate and House of Representatives, a detailed report on the implementation of this Act within six (6) months after the one (1) year period of availment of the General Tax Amnesty under this Act

SEC. 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 ninety (90) days from the effectivity of this Act.

The failure of the Secretary of Finance to promulgate the said rules and regulations shall not prevent the implementation of this Act upon its effectivity.

SEC. 17. Separability Clause. – If any provision of this Act is subsequently declared invalid or unconstitutional, the other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 18. Repealing Clause. – all other laws, acts, presidential decrees, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby expressly repealed, amended or modified accordingly.

SEC. 19. Effectivity. - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least one (1) newspaper of general circulation.

Approved,