

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



HOUSE OF REPRESENTATIVES

House Bill No. 2823

Introduced by Representative Ralph G. Recto

**AN ACT
ORDAINING A BILL OF RIGHTS FOR TAXPAYERS**

EXPLANATORY NOTE

It is a legal truism that taxes are the lifeblood of the Government. Thus, to generate income, the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), are mandated to collect national taxes, tariffs and duties, under the National Internal Revenue Code (NIRC) of 1997, as amended, and the Customs Modernization and Tariff Act (CMTA), respectively, to finance Government projects, programs and its personnel.

In the arena of tax collection, there are always two sides, the Government and the taxpayer. Reading the provisions of the NIRC and CMTA on remedies, the Government is amply protected.

On the other hand, while under the NIRC and CMTA, there are legal rights and remedies available to the taxpayers, however, reports persist that certain individuals have been subjected to harassment by some officials and employees of the BIR and BOC. These include the filing of undue and baseless complaints resulting to embarrassment and humiliation on the part of the taxpayers.

Protecting taxpayers is a balancing act that challenges the Government vis-à-vis its mandate to collect the necessary revenues for the Government.

Thus, this bill seeks to ordain a bill of rights for the taxpayers which are divided into three main pillars: a) taxpayers' basic rights, b) taxpayers' rights in civil cases, and c) taxpayers' rights in criminal cases. The enumerated rights are in addition to the legal rights and remedies provided under the NIRC and CMTA.

In order to protect the taxpayers' rights, this measure also seeks to establish the Office of the Taxpayers Advocate with, among others, the following functions:

- a. assist taxpayers in resolving problems with the BIR and BOC;
- b. identify areas in which taxpayers have problems in transactions with the BIR and BOC;
- c. to the extent possible, propose reforms in the administrative practices of the BIR and BOC to mitigate problems identified under the preceding paragraph;
- d. identify potential legislative amendments which may be appropriate to mitigate such problems; and
- e. issue taxpayer assistance orders.

Clearly, there is a need to enact this bill into law in order to protect the rights of the taxpayers. Mandating due observance of standards and proper procedures on the part of BIR and BOC in dealing with various concerns of taxpayers would not only promote efficiency, but may likewise eliminate red tape and corruption.

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


RALPH G. RECTO

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

1 Sec. 1. *Title.* – This Act shall be known as “The Taxpayer Bill of Rights Act”.

2 Sec. 2. *Declaration of Principles.* – It is hereby declared the policy of the State
3 to provide increased protection of taxpayers’ rights in complying with the National
4 Internal Revenue Code of 1997, as amended, the Customs Modernization and Tariff
5 Act, and all other rules and regulations, to the end that abuses committed against
6 taxpayers are mitigated, if not completely avoided, and taxes are collected
7 responsibly, with due regard for taxpayers’ rights.

8 Sec. 3. *Taxpayer’s Bill of Rights.* – In addition to the rights and remedies of the
9 taxpayers as provided for in the National Internal Revenue Code (NIRC) of 1997, as
10 amended; Customs Modernization and Tariff Act (CMTA); Republic Act No. 1125, as
11 amended, creating the Court of Tax Appeals (CTA); and all other laws, rules and
12 regulations, issuances and circulars in support thereof, the taxpayers are hereto
13 granted the following: a) taxpayers’ basic rights; b) taxpayers’ rights in civil cases;
14 and c) taxpayers’ rights in criminal cases, whether at the administrative level or at the
15 judicial level, concerning tax assessments, collection and refund, and prosecution for
16 criminal cases.

17 Sec. 4. *Taxpayers’ Basic Rights.* – The following are the taxpayers’ basic rights:

1 a. The right to be informed of any pending assessment, investigation for
2 criminal tax cases, collection or any other cases filed against the taxpayer or that the
3 taxpayer is a subject of any request for third-party information or any lifestyle check
4 for purposes of tax compliance. The right to available information and prompt,
5 accurate responses to questions and requests for tax assistance shall always be
6 ensured. In this regard, all revenue officers and agents shall undergo regular training
7 and evaluation on a variety of job standards including customer relations. This
8 standard requires agents to ensure that they fully explain to taxpayers their rights
9 under the law;

10 b. The right to obtain simple, nontechnical statements, which explain the
11 reason for audit selection and the procedures, remedies, and rights available during
12 audit, appeals and collection proceedings. These rights include, but are not limited to,
13 the rights pursuant to this Taxpayers' Bill of Rights and the right to be provided with
14 a narrative description which explains the basis of audit changes, proposed
15 assessments, assessments and denials of refunds; identifies any amount of tax,
16 interest, or penalty due; and states the consequences of the taxpayer's failure to
17 comply with the notice;

18 c. The right to have a speedy and impartial disposition of cases, the right to
19 due process and the observance of rules regarding assessments, refunds or any other
20 proceedings including requests for advisory rulings, clearances, termination letters and
21 lifting of seizure, garnishment and forfeiture orders, whether it be against the taxpayer
22 or against the officials and staff of the Bureau of Internal Revenue (BIR), the Bureau
23 of Customs (BOC) and other government agencies including government-owned and
24 -controlled corporations (GOCCs), government financial institutions (GFIs), and local
25 government units (LGUs) tasked with the enforcement of revenue or banking and
26 financial laws, whether of local or national application;

27 d. The right to privacy as guaranteed by the Constitution, and the right to
28 have any case or proceeding, including those involving third-party information
29 requests against or involving the taxpayer, to be devoid of publicity, whether through
30 radio, television, newspaper or any alternative media, while said case or proceeding
31 is pending;

1 e. The right to seek assistance from the National Taxpayer Advocate who shall
2 be responsible for facilitating the resolution of taxpayer complaints and problems not
3 resolved through the normal administrative channels within the BIR or BOC, including
4 any taxpayer complaints regarding unsatisfactory treatment by BIR or BOC employees.
5 The taxpayers' rights advocate may issue a stay order if a taxpayer has suffered or is
6 about to suffer irreparable loss as a result of an unjust action by the said Bureaus;

7 f. The right to have the taxpayer's tax information kept confidential unless
8 otherwise authorized by law;

9 g. The right to participate in free education activities that help the taxpayer
10 successfully comply with the revenue laws of the State;

11 h. The right to fair and consistent application of the tax laws of the State by
12 the BIR and BOC;

13 i. The right to have the BIR begin and complete its audits in a timely and
14 expeditious manner after notification of intent to audit through a letter of authority.
15 Such audit shall be conducted only once per year unless otherwise provided by law;

16 j. The right to request for installment payment of tax liabilities under any
17 compromise settlement or any assessed tax liabilities pursuant to Taxpayer Assistance
18 Order;

19 k. The right to recover attorney's fees and litigation costs for tax assessments
20 made without substantial justification, and for claims for tax refunds which are not
21 acted upon for an unreasonable length of time at the administrative level, or denied
22 at the administrative level but subsequently allowed by the CTA if it appears that such
23 denial was unjustified. The award of attorney's fees and costs of litigation shall be
24 included in the order upholding the taxpayer's claim;

25 l. The right to have interests and penalties abated in case of any unjustifiable
26 error or delay caused by the tax authorities or their agents, including ministerial acts
27 such as loss of records, personnel transfers, extended illness or leaves of absence,
28 and personnel training; and,

29 m. The right to have the assistance of counsel in criminal proceedings, should
30 the taxpayer request for it.

31 Sec. 5. *Taxpayers' Rights in Civil Cases.* – The following are the taxpayers'
32 rights in civil cases:

1 a. The right to have the opportunity to have the case against the taxpayer
2 amicably settled, as the case may warrant: *Provided*, That in every stage of the
3 proceeding, whether in the administrative or judicial level, the parties shall always be
4 given the chance to exhaust all and every remedy available for the speedy settlement
5 of the case: *Provided, further*, That nothing in this Act shall deprive the court of
6 competent jurisdiction of its judicial prerogatives;

7 b. The right to be informed of impending collection action which requires sale
8 or seizure of property or freezing of assets, except jeopardy assessments, and the
9 right to have at least thirty (30) days within which to pay the liability or seek further
10 review;

11 c. The right to have all other collection actions attempted before a jeopardy
12 assessment suspended, unless delay will endanger collection and, after a jeopardy
13 assessment, the right to have an immediate review of the jeopardy assessment. As
14 used herein, jeopardy assessment is a tax assessment made by an authorized revenue
15 officer (RO) without the benefit of a complete or partial audit, considering the RO's
16 judgment that the assessment and collection of a deficiency tax will be jeopardized by
17 delay caused by the taxpayer's failure to: (1) comply with audit and investigation
18 requirements to present his books of accounts and/or pertinent records; or (2)
19 substantiate all or any of the deductions, exemptions or credits claimed in his return;

20 d. The right to seek review, through formal or informal proceedings, of any
21 adverse decisions relating to determinations in the audit or collection processes and
22 the right to seek a reasonable administrative stay enforcement action while the
23 taxpayer pursues other administrative remedies available under the law;

24 e. The right to be informed of the procedures for conditional termination of
25 tax obligations through installment payment agreements which recognize both the
26 taxpayer's financial condition and the best interests of the State: *Provided*, That the
27 taxpayer gives accurate and current information and meets all other tax obligations
28 on schedule;

29 f. The right to be informed of the procedures for requesting cancellation,
30 release, or modification of liens filed by the BIR and the BOC and for requesting that
31 any lien which is filed in error be so noted on the lien cancellation filed by the BIR and
32 the BOC, with public notice to any credit agency at the taxpayer's request;

1 g. The right of the taxpayer in a judicial or administrative action brought or
2 maintained without the support of justiciable issues of fact or law, to recover all costs
3 of the administrative or judicial action, including reasonable attorney's fees; and

4 h. The right to waiver of interest that accrues as the result of errors or delays
5 caused by a BIR/BOC employee: *Provided*, That the provisions of Rule 63 of the Rules
6 of Civil Procedures (Declaratory Relief and Similar Remedies) shall likewise be
7 applicable to the aggrieved taxpayer.

8 Sec. 6. *Taxpayers' Rights In Criminal Tax Cases.* – The following are the
9 taxpayers' rights in criminal tax cases:

10 a. The right to be knowledgeably and intelligently informed of the charges as
11 contained in any properly and timely prepared audit report, assessment notice,
12 correspondence, document, letter and the like, as implemented by rules and
13 regulations, as the case may be, coming from the BIR or BOC or any government
14 agency tasked to enforce the revenue laws and banking and financial laws, in
15 appropriate cases;

16 b. The right to be given ample and adequate opportunity, as the situation may
17 warrant, to present evidence at the taxpayer's or anybody else's possession that would
18 assist the taxpayer in the pursuit of the case;

19 c. The right to seek the assistance of competent and willing counsel of the
20 taxpayer's own choice, to help and assist the taxpayer in the preparation or defense
21 of the case;

22 d. The right to be served with all the necessary documents and papers
23 appurtenant thereto, relative to the charges against the taxpayer, in a manner that
24 would assist and expeditiously present the taxpayer's side pursuant to the charges
25 against the taxpayer;

26 e. The right to present the taxpayer's own witnesses: and

27 f. The right to be represented or advised by counsel or other qualified
28 representatives at any time in administrative interactions with the BIR and the BOC;
29 the right to procedural safeguards with respect to recording of interviews during tax
30 determination or collection processes conducted by the BIR and the BOC; the right to
31 be treated in a professional manner by the BIR and the BOC personnel; and the right

1 to have audits, inspections of records, and interviews conducted at a reasonable time
2 and place except in criminal and internal investigations.

3 *Sec. 7. Creation of the Office of the National Taxpayer Advocate.* – In order
4 to protect the rights of taxpayers and in recognition of the complexity of tax laws,
5 both substantive and procedural, there is hereby created the Office of the National
6 Taxpayer Advocate to promote tax compliance and assist taxpayers, individual or
7 juridical. The Office of the National Taxpayer Advocate shall be under the
8 administration and supervision of an official to be known as the National Taxpayer
9 Advocate and shall be attached to the Office of the President for administrative
10 purposes only. The National Taxpayer Advocate shall have the rank of Undersecretary
11 and shall be appointed by the President of the Philippines.

12 The National Taxpayer Advocate shall be a Filipino citizen, at least forty (40)
13 years of age, a member of the Philippine Bar in good standing, with at least ten (10)
14 years of practice in the field of taxation, with proven integrity and competence, and
15 must not have been convicted of any crime involving moral turpitude.

16 An individual cannot be appointed as the National Taxpayer Advocate if such
17 individual has been an employee or officer of, or has rendered service as consultant
18 or in any other capacity to, the BIR or the BOC or any of its agencies or has been a
19 local treasurer for two (2) years prior to such appointment. A National Taxpayer
20 Advocate cannot serve as officer or employee or consultant of, or be appointed to or
21 act in whatever capacity in, the BIR or the BOC or as local treasurer, within five (5)
22 years following his/her tenure as a National Taxpayer Advocate. For purposes of this
23 Act, a local treasurer includes a municipal, city or provincial treasurer.

24 *Sec. 8. Functions of Office of the Taxpayers Advocate.* – It shall be the
25 function of the Office of the Taxpayers Advocate to:

- 26 a. Assist taxpayers in resolving their problems with the BIR and BOC;
- 27 b. Identify areas in which taxpayers have problems in dealings with the BIR
28 and BOC;
- 29 c. Propose changes, to the extent possible, in the administrative practices of
30 the BIR and BOC with the end in view of mitigating problems identified under the
31 preceding paragraph;

1 d. Identify potential legislative changes which may be appropriate to mitigate
2 such problems;

3 e. Issue taxpayer assistance orders upon application filed by a taxpayer with
4 the Office of the National Taxpayer Advocate. The latter may issue a Taxpayer
5 Assistance Order when: (i) it is determined that the taxpayer is suffering or about to
6 suffer a significant hardship as a result of the manner in which the internal revenue
7 laws are being administered by the BIR, BOC or the local treasurer; or (ii) the
8 taxpayer meets such other requirements as are set forth in the implementing rules
9 and regulations of this Act. For purposes of this paragraph, a significant hardship
10 shall include: (i) an immediate threat of adverse action; (ii) any action that will
11 violate the right to privacy of a taxpayer; (iii) a delay of more than thirty (30) days
12 in resolving taxpayer account problems; (iv) the taxpayer will incur significant and
13 unnecessary costs, including fees for professional representation, if relief is not
14 granted; or (v) irreparable injury to, or a long-term adverse impact on, the taxpayer
15 if relief is not granted. Nothing herein shall prevent the National Taxpayer Advocate
16 from taking any action in the absence of an application mentioned herein;

17 f. In cases where any tax authority employee is not following the laws, rules
18 and regulations or any applicable published administrative guidance, the National
19 Taxpayer Advocate shall construe the factors taken into account in determining
20 whether to issue a Taxpayer Assistance Order in the manner most favorable to the
21 taxpayer;

22 g. Any Taxpayer Assistance Order issued by the National Taxpayer Advocate
23 under this section may be modified or rescinded by the National Taxpayer Advocate,
24 only if a valid written explanation was submitted by the Commissioner of Internal
25 Revenue or the Commissioner of Customs, as the case may be, and that the reasons
26 for the modification or rescission are specifically stated by the National Taxpayer
27 Advocate in the rescission or modification order; and

28 h. The duration of any period of limitation with respect to any action for which
29 a Taxpayer Assistance Order has been issued shall be suspended for the period
30 beginning on the date of the taxpayer's application under subsection (e) and ending
31 on the date of the National Taxpayer Advocate's decision with respect to such

1 application and any period specified by the National Taxpayer Advocate in a Taxpayer
2 Assistance Order issued pursuant to such application.

3 *Sec. 9. Submission of Annual Reports by the Office of the National Taxpayer*
4 *Advocate.* – Not later than December 31 of each calendar year, the Office of the
5 National Taxpayer Advocate shall submit a report to the Chairpersons of the
6 Committee on Ways and Means of the Senate of the Philippines and House of
7 Representatives on its activities during the fiscal year ending during such calendar
8 year. Any such report shall contain full and substantive analysis, in addition to
9 statistical information, and shall:

10 a. Identify the initiatives that the Office of the National Taxpayer Advocate has
11 undertaken aimed at improving taxpayer services and the tax authorities'
12 responsiveness;

13 b. Contain recommendations received from taxpayers by the Office of National
14 Taxpayer Advocate;

15 c. Contain a summary of the most serious problems encountered by taxpayers,
16 including a description of the nature of such problems;

17 d. Contain an inventory of the items described in subsections (a), (b), and (c)
18 of this Section for which action has been taken and the result of such action;

19 e. Contain an inventory of the items described in subsections (a), (b), and (c)
20 of this Section for which action remains to be completed and the period during which
21 each item has remained on such inventory;

22 f. Contain an inventory of the items described in subsections (a), (b), and (c)
23 of this Section for which no action has been taken, the period during which each item
24 has remained on such inventory, the reasons for the inaction, and identify any BIR
25 and BOC official or employee who is responsible for such inaction;

26 g. Identify any Taxpayer Assistance Office orders/recommendations which was
27 not honored by the BIR and the BOC in a timely manner;

28 h. Contain recommendations for such administrative and legislative action as
29 may be appropriate to resolve problems encountered by taxpayers;

30 i. Identify areas of the tax law that impose significant compliance burdens on
31 taxpayers, the BIR, the BOC, and local treasurers including specific recommendations
32 for remedying these problems;

1 j. Identify the most litigated issues for each category of taxpayers, including
2 recommendations for mitigating such disputes; and

3 k. Include such other information as the National Taxpayer Advocate may
4 deem relevant.

5 Each report required under this subparagraph shall be provided directly to the
6 Committee on Ways and Means of the Senate of the Philippines and the House of
7 Representatives without any prior review or comment from the respective
8 Commissioner of BIR or BOC or any other officer or employee of the said Bureaus.
9 The National Taxpayer Advocate shall furnish copies of said report to the Secretary of
10 Finance, and to the respective Commissioners of the BIR and BOC.

11 The Commissioners of the BIR and BOC shall establish procedures requiring a
12 formal response to all recommendations submitted to them by the National Taxpayer
13 Advocate within three (3) months from the date of submission.

14 Sec. 10. *Other Responsibilities of the National Taxpayer Advocate.* – The
15 National Taxpayer Advocate shall:

16 a. Monitor the coverage and geographic deployment of local offices of
17 taxpayer advocates;

18 b. Develop guidelines to be distributed to all BIR and BOC officers and
19 employees and the local treasurers outlining the criteria for referral of taxpayer
20 inquiries to local offices of taxpayer advocates;

21 c. Ensure that the local telephone number for each local office of the taxpayer
22 advocate is published and available to taxpayers served by the office; and

23 d. Develop career paths for local taxpayer advocates in the Office of the
24 National Taxpayer Advocate.

25 Sec. 11. *Personnel Actions of the National Taxpayer Advocate.* – The National
26 Taxpayer Advocate shall have the responsibility and authority to:

27 a. Appoint local taxpayer advocates and make available at least one (1) such
28 advocate for each province; and

29 b. Evaluate and take personnel actions including dismissal with respect to any
30 employee of any local office of the National Taxpayer Advocate described in subsection
31 (a) of this Section.

1 The National Taxpayer Advocate may consult with the appropriate supervisory
2 personnel of the BIR and BOC in carrying out the National Taxpayer Advocate's
3 responsibilities and qualifications under this Section.

4 *Sec. 12. Remedies.* — Any violation of the provisions of this Act committed by
5 any official or employee of the BIR or the BOC, other than the Commissioner of
6 Internal Revenue and Commissioner of Customs, shall be filed with the office of the
7 Commissioner of Internal Revenue or the Commissioner of Customs, as the case may
8 warrant, with the assistance of the National Taxpayer Advocate. The Commissioner of
9 Internal Revenue or the Commissioner of Customs shall decide the controversy
10 expeditiously, which shall not in any case be more than sixty (60) days from the time
11 the complaint or case is filed with their respective offices. Decisions of the
12 Commissioner of Internal Revenue or the Commissioner of Customs concerning any
13 complaint or case for violation of the provisions of this Act, may be brought for review
14 by the aggrieved party or the latter's authorized representative, to the Secretary of
15 Finance. In case the Commissioner of Internal Revenue or Commissioner of Customs
16 fail to act on such complaint or case within the time herein prescribed, the aggrieved
17 party or the latter's authorized representative may file the complaint or case directly
18 with the Secretary of Finance.

19 Complaints against the Commissioner of Internal Revenue or the Commissioner
20 of Customs for violation of this Act shall be filed directly with the Secretary of Finance
21 who shall decide the case within sixty (60) days from the date the complaint was filed.
22 Decisions of the Secretary of Finance may be appealed before the Office of the
23 President.

24 Any complaint or case filed pursuant to this Section shall be without prejudice
25 to any other action that may be instituted against the employee or official of the BIR
26 or the BOC under existing laws, rules and regulations.

27 Evidence against the taxpayers obtained in relation to this Act shall be
28 inadmissible in any court or proceeding if found to have been obtained in violation of
29 any of the above-enumerated taxpayer's rights.

30 *Sec. 13. Penalties for the Violation of the Bill of Rights of Taxpayers.* — Any
31 person or public official who is found to have violated the Bill of Taxpayers Rights shall
32 be punished with imprisonment of not less than six (6) years nor more than twelve

(12) years and a fine of not less than one hundred thousand pesos (Php100,000.00) but not more than five hundred thousand pesos (Php500,000.00).

Sec. 14. *Report of the Secretary of Department of Finance.* – On or before June 1 of each calendar year, the Secretary of the Department of Finance (DOF) shall submit and present to both the Chairpersons of the Senate and House of Representatives Ways and Means Committee a report on: (a) All categories of incidents involving the misconduct of the officers and employees of the BIR and BOC during the preceding calendar year; and (b) Action on and disposition of any such instances.

Sec. 15. *Implementing Rules and Regulations.* – Within thirty (30) days from the effectivity of this Act, the following shall promulgate the necessary rules and regulations for its effective implementation:

- a. A representative from the DOF;
- b. A representative from the BIR;
- c. A representative from the BOC;
- d. A representative from the Secretariat of the Congressional Oversight Committee on Comprehensive Tax Reform Program;
- e. Representatives from the Committee on Ways and Means of both Houses of Congress; and
- f. A representative each from a business association and the Philippine Institute of Certified Public Accountants (PICPA).

Sec. 16. *Separability Clause.* – If any provision or part hereof is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

Sec. 17. *Repealing Clause.* – All laws, acts, decrees, executive orders, issuances, and rules and regulations or parts thereof which are contrary to and inconsistent with this Act are hereby repealed, amended or modified accordingly.

Sec. 18. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,