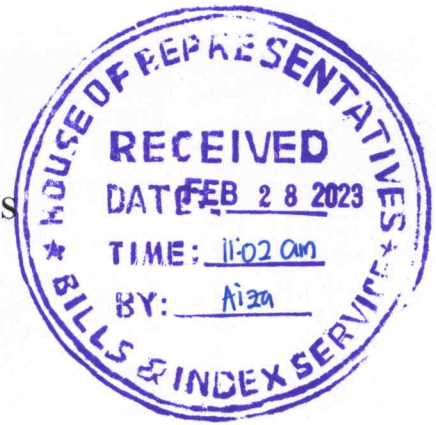


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7321



Introduced by Rep. Rodante D. Marcoleta

EXPLANATORY NOTE

The taxation laws of the Philippines have been strengthened over the years. The enactment of Republic Act (RA) No. 11534, or the “*Corporate Recovery and Tax Incentives for Enterprises (CREATE)*” is a living testament of the government’s firm resolve to push its economic reforms forward.

In the collection of taxes, the government has unbridled power to pursue taxpayers, which in a number of cases, is to their undue prejudice. As a result, affected taxpayers must resort to hiring lawyers and certified public accountants in order to ensure that their rights are protected.

RA No. 6713, or the “*Code of Conduct and Ethical Standards for Public Officials and Employees*”, provides for, among others, specific rules of actions and behavior of government employees. However, it does not stop the alleged abuses or harassment of some officers and employees of the Bureau of Internal Revenue (BIR) and Bureau of Customs (BOC). The Taxpayer Bill of Rights and Obligations (TBORO) would be a major leap in addressing this systemic problem and in protecting taxpayers against threats on their rights, particularly those emanating from the undue discretions of tax authorities.

In the April 2022 report of the Revenue Integrity Protection Service (RIPS) of the Department of Finance (DOF), 55% of the 468 employees investigated from the period July 2016 to February 2022 were from the BOC while 38% were from the BIR. This led to the dismissal of 16 employees from the service, on top of the 10 who were found guilty in criminal cases, 35 were suspended, 9 were reprimanded and 7 were ordered to pay fines as penalties for the charges for which they were held liable. Furthermore, on 11 July 2022, the BOC reported that three of its personnel were dismissed, 27 were relieved, 1 was reprimanded, and 7 were suspended for having found to have engaged in “irregular

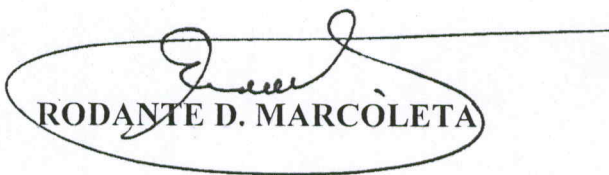
activities”. Their investigations further led to 249 employees being reshuffled to other offices and ports from January to June 2022.

Given the guidelines set by the Organisation for Economic Co-operation and Development (OECD) and international standards and practices, this measure proposes the TBORO, which contains fundamental information aimed to help taxpayers know their basic rights and obligations without having to consult the Tax Code and several tax laws that are complicated and difficult to understand. These rights are not new as they are already enshrined in the 1987 Constitution and/or provided for by law. It would greatly benefit taxpayers if such rights along with those that supplement the rights and remedies of taxpayers as provided for in R.A. 8424, or the “*National Internal Revenue Code (NIRC)*”; R.A. 10863, or the “*Customs Modernization and Tariff Act (CMTA)*”; R.A. 1125, as amended or “*An Act Creating The Court Of Tax Appeals*”, and all other laws, rules and regulations, issuances and circulars in support thereof, are summarized in a concise and clear manner.

This measure also proposes the creation of the Office of a National Taxpayer Advocate; provides remedies to taxpayer’s concerns; promotes accessibility to the taxpayer’s rights and obligations, especially to MSMEs; and advocates the establishment of a micro- and small- taxpayer clinic program to be developed by the Department of Finance.

This legislation hopes to enliven taxpayer’s experience with revenue authorities and will eventually elicit greater taxpayer’s trust and confidence in the tax system, improve their willingness to comply with their tax obligations, and will ultimately increase government revenue collections.

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


RODANTE D. MARCÓLETA

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7321

Introduced by Rep. Rodante D. Marcoleta

**AN ACT PROVIDING FOR THE
BILL OF RIGHTS AND OBLIGATIONS OF TAXPAYERS, CREATING THE
OFFICE OF THE NATIONAL TAXPAYER ADVOCATE, APPROPRIATING
FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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

SEC. 1. Title. — This Act shall be known as "The Taxpayer's Bill of Rights and Obligations Act."

SEC. 2. Declaration of Policy. — It is hereby declared the policy of the State to provide increased protection of taxpayers' rights in complying with their obligation to pay national and local taxes to the government, to the end that abuses committed against taxpayers are prevented, if not completely eradicated, and taxes are collected responsibly, with due regard for taxpayers' rights. In turn, taxpayers are expected to faithfully comply with their tax obligations to the government.

SEC. 3. Definition of Terms. — As used in this Act, the following terms shall mean:

- a) *Assessment* refers to the process of determining the amount of taxes, duties, and other charges to be paid by the taxpayer;
- b) *Revenue Authority* refers, singly or collectively, to the Bureau of Internal Revenue (BIR), Bureau of Customs (BOC), Local Government Units (LGUs), and other tax collecting agencies;
- c) *Revenue Officers* refer to the officers, employees, and agents of the revenue authorities;

d) *Summary Collection* refers to the civil remedy of the government for the collection of accounts receivable or delinquent accounts by garnishment or distraint of personal property, or levy of real property;

e) *Taxes* refer to all taxes imposed under the National Internal Revenue Code (NIRC) of 1997, as amended, the Customs Modernization and Tariff Act of 2016, the Local Government Code of 1991, as amended, and all other tax laws, rules and regulations, including those collected by other tax collecting agencies;

f) *Taxpayer* refers to any person, whether natural or juridical, subject to the tax imposed by the national and local government; and

g) *Tax Audit* refers to the examination into a taxpayer's obligation, and compliance with tax laws, rules and regulations by the BIR, BOC, LGUs, or other tax collecting agencies, as the case may be.

SEC. 4. *Taxpayer's Bill of Rights and Obligations.* — Notwithstanding the rights and remedies of the taxpayer provided for in the National Internal Revenue Code (NIRC) of 1997, as amended; Customs Modernization and Tariff Act (CMTA); Republic Act (RA) No. 1125, creating the Court of Tax Appeals (CTA), as amended; Book II of the Local Government Code of 1991, as amended; and all other laws, rules and regulations, issuances, and circulars in support thereof, the taxpayer is hereto granted basic taxpayer rights, whether at the administrative level or at the judicial level. *Provided,* That nothing in this Act shall amend the jurisdiction of the courts and quasi-judicial agencies, as provided for by law, nor deprive the Judiciary of its power to promulgate rules and procedures in all courts.

Accordingly, the taxpayer is expected to observe and comply with tax obligations enumerated in this Act and in other relevant laws, rules, and regulations that are implemented by revenue authorities.

SEC. 5. *Taxpayer's Basic Rights.* — The following are the taxpayer's basic rights:

a) *Right to Information.* – The taxpayer shall have the right to know in a simplified manner how one can comply with laws, rules and regulations implemented by revenue authorities. The taxpayer is entitled to clear, complete, accurate, and simplified explanation of tax laws,

rules, regulations, and procedures, as well as be apprised of taxpayer's rights and obligations in all tax forms, publications, notices, correspondences, assessments, rulings, and decisions.

In case of any deficiency tax findings or alleged violations, the taxpayer shall have the right to be clearly and sufficiently informed in writing of the facts and laws thereon, including any supporting computation or documentation, or both, upon which they are based, at the same time such findings or violations are communicated.

Unless prejudicial to the government, the taxpayer shall have the right to be informed of any impending institution by revenue authorities of a summary collection action, which requires sale or seizure of property or the freezing of assets.

b) Right to fair and faithful application of laws. - The taxpayer shall have the right to a fair and faithful application of laws, rules, regulations, and other issuances of revenue authorities in all proceedings involving the taxpayer.

c) Right to challenge the position of and be heard by revenue authorities. - The taxpayer shall have the right to challenge and raise objections against the findings, assessments, rulings, or decisions of the revenue authorities, unless otherwise prohibited by law.

d) Right to present evidence and witnesses. - The taxpayer shall have the right to be given ample and adequate opportunity to present evidence in the possession of the taxpayer or any third party, and call on witnesses to testify, as the case may be, that would assist the taxpayer in the pursuit of the case.

e) Right to be assisted or represented by a qualified professional. - The taxpayer shall have the right to be assisted or represented by a competent and independent qualified professional, such as a legal counsel, accountant, or customs broker, of the Taxpayer's own choice, in all administrative, civil, or criminal tax proceedings.

In case the taxpayer experiences financial difficulty in engaging the services of a private counsel or qualified professional, the Office of the National Taxpayer Advocate (ONTA) shall provide free and effective representation to the taxpayer, upon the latter's request.

f) Right to timely and expeditious completion of tax audits. – The taxpayer shall have the right to have revenue authorities begin and complete tax audits in a timely and expeditious manner.

g) Right against baseless assessment. - Except in cases allowed by law, the tax authorities are prohibited from issuing assessments against taxpayers without the benefit of an audit conducted against taxpayers. Otherwise, such assessments shall be void.

h) Right to be given an opportunity for amicable settlement. – Unless contrary to laws, rules and regulations, the taxpayer shall have the opportunity to amicably settle the taxpayer's deficiencies and delinquencies, at any stage of the proceedings: *Provided*, That said settlement must be in writing and duly signed by the parties or their agent.

i) Right to avail of installment payment. – In so far as may be permitted by law, the taxpayer shall have the right to settle tax liabilities through installment payments.

j) Right to relief from paying interests and penalties. – The taxpayer shall be entitled to a reduction of interests and penalties levied on their tax liabilities in case of any unjustifiable error or delay caused by the revenue authorities, including instances of loss of records, personnel transfers, extended illness or leaves of absence, and personnel training, resignation, retirement, or termination from service of the concerned personnel.

k) Right to recover actual costs and actual damages arising from judicial actions. – The taxpayer shall have the right to recover actual costs and actual damages, including attorney's fees and expenses of litigation, arising from judicial actions, as may be determined by a court of competent jurisdiction.

l) Right to quality service and assistance. – The taxpayer shall have the right to be treated professionally, courteously, fairly, and reasonably by revenue authorities.

m) Right to privacy. – The taxpayer shall have the right to privacy of communication and correspondence, as guaranteed by the Constitution, and the Data Privacy Act of 2012. The taxpayer shall have the right to demand that any information provided to revenue authorities shall not be disclosed and shall be kept confidential, unless disclosure is expressly authorized by law or by the taxpayer.

SEC. 6. *Taxpayer's Basic Obligations.* – Complementary to the above taxpayer's rights are the following duties and responsibilities of the taxpayer:

- a) Observe and comply with tax laws, rules, and regulations;
- b) Truthfully and timely disclose complete and correct information as required by tax laws, rules, and regulations, including but not limited to, registered address, official email address, registered activities, tax type details, and accounting period;
- c) Lodge and submit, either personally or through electronic means, in a timely manner all relevant information, books of accounts, reports, records, returns, and other documents to revenue authorities on or before the dates set by tax laws, rules, and regulations;
- d) Exercise reasonable care and diligence in complying with all tax obligations;
- e) Keep accurate records of the required books of accounts and other tax information for the duration required by law, rules, and regulations, and make them available for examination by revenue officers following proper procedures;
- f) Cooperate with revenue authorities in the latter's conduct of tax audits in accordance with laws, rules, and regulations; and
- g) Timely pay the taxes due to the government through any available payment channels.

SEC. 7. *Creation of the Office of the National Taxpayer Advocate.* — In order to protect the rights of taxpayers, both substantive and procedural, the ONTA is hereby created to promote tax compliance and assist taxpayers. The ONTA shall be an independent and autonomous office attached to the Department of Justice (DOJ) for purposes of policy and program coordination.

The ONTA shall have the power to provide for the structural organization and staff of its offices and shall have the power and authority to designate and appoint officers and employees of the Office and create divisions and units, including regional or provincial offices, as may be necessary, subject to the approval of the Department of Budget and

Management (DBM) and in accordance with civil service laws, rules, and regulations: *Provided*, That all employees shall be subject to Republic Act No. 6758, otherwise known as the Salary Standardization Act.

SEC. 8. Powers, Functions and Responsibilities of the Office of the National Taxpayer Advocate. — The ONTA shall have the following functions, powers, and responsibilities:

- a) Assist the public in their tax queries and concerns relative to taxes;
- b) Represent taxpayers, and assist, initiate, and intervene, as may be applicable, in tax cases, complaints, and proceedings, after due evaluation: *Provided*, That the qualifications and disqualifications of taxpayers who shall be given priority in the ONTA's representation services shall be in relation to Section 5(e) of this Act.
- c) Engage in regular information, education, and communication programs for all taxpayers on tax laws, rules, regulations, circulars, including those that implement Supreme Court decisions, and other issuances that affect them, including their rights and remedies under the law;
- d) Recommend remedial administrative measures to revenue authorities by way of continuing policy review, and to the Anti-Red Tape Authority for purposes of reducing regulatory burden to taxpayers;
- e) Monitor tax issuances of revenue authorities, and propose recommendations, when necessary, at the administrative level, to ensure that taxpayers' rights as provided in this Act are upheld;
- f) Develop capacity building programs, and conduct the necessary trainings for the officials and employees of ONTA; and
- g) Perform such other powers and functions as may be necessary to enhance the ONTA's performance of its powers, functions, and responsibilities, as enumerated in this Act.

SEC. 9. *The Chief Taxpayer Advocate and Deputy Taxpayer Advocates.* - The ONTA shall be headed by the Chief Taxpayer Advocate, who shall have the primary authority and responsibility for the effective exercise of its mandate and the discharge of its powers and functions. The Chief Taxpayer Advocate shall be assisted by Deputy Taxpayer Advocates, one (1) each for the National Capital Region, Luzon, Visayas, and Mindanao.

The Chief Taxpayer Advocate and Deputy Taxpayer Advocate shall be Filipino citizens, at least forty (40) years of age, members of the Philippine Bar in good standing, with at least ten (10) years of practice in the field of taxation with proven integrity and competence and must not have been convicted of any crime involving a violation of any tax laws and rules, and of any crime involving moral turpitude.

SEC. 10. *Appointment, Term, and Rank.* - The Chief Taxpayer Advocate and Deputy Taxpayer Advocates shall be appointed by the President: *Provided*, That the appointment of the Deputy Taxpayer Advocates shall be upon the recommendation of the Chief Taxpayer Advocate. They shall both serve for a fixed term of seven (7) years with one (1) re-appointment.

The Chief Taxpayer Advocate and Deputy Taxpayer Advocates shall have the equivalent rank, salaries, allowances, and retirement benefits as the Prosecutor-General and Senior Deputy State Prosecutor of the National Prosecution Service, respectively.

SEC. 11. *Disqualification.* - An individual cannot be appointed as the Chief Taxpayer Advocate or Deputy Taxpayer Advocate if such individual has been an employee or officer of, or has rendered service as consultant or in any other capacity to any of the revenue authorities for two (2) years prior to such appointment.

SEC. 12. *Submission of Annual Reports.* - The Congressional Oversight Committee on the Comprehensive Tax Reform Program (COCCTRP) shall exercise oversight powers over the implementation of this Act.

To this end, the ONTA shall submit a detailed report on its activities and identified problem areas, either personally or through electronic means, to the COCCTRP on or before

December 31 of every year, copy furnished the Secretary of Finance, particularly on identified areas in which taxpayers have problems in dealing with revenue authorities.

Afterwards, on or before June 1 of every year, the Secretary of Finance shall submit a report in relation to the ONTA's report, either personally or through electronic means, to the COCCTRP and shall include appropriate remedial action, if any, or proposed legislation, and other recommendations on the proper implementation of this Act.

SEC. 13. *Penalties for the Violation of the Bill of Rights of Taxpayers.* — Notwithstanding the administrative remedies provided in the National Internal Revenue Code (NIRC) of 1997, as amended; the Customs Modernization and Tariffication Act of 2016 (CMTA); R.A. No. 1125 creating the Court of Tax Appeals (CTA), as amended; and Book II of the Local Government Code of 1991, as amended, any person or revenue officer who is found to have violated Section 5 of this Act shall be punished with imprisonment of not less than six (6) months nor more than six (6) years, or a fine of not less than One Hundred Thousand Pesos (Php100,000.00) but not more than One Million Five Hundred Thousand Pesos (Php1,500,000.00), or both.

SEC. 14. *Accessibility of the Taxpayer's Bill of Rights and Obligations.* — The Taxpayer's Bill of Rights and Obligations shall be made available in all offices of revenue authorities, free of charge, in all formats, digital or otherwise, and shall be posted in their respective websites, in English and Filipino language.

SEC. 15. *Integration of Taxpayer's Bill of Rights and Obligations in Higher Education curriculum.* — All public and private higher education institutions shall integrate the Taxpayer's Bill of Rights and Obligations as part of the curriculum. The Commission on Higher Education (CHED), pursuant to its mandate under RA No. 7722, otherwise known as the "Higher Education Act of 1994," shall develop the program to execute and implement this Section.

SEC. 16. *Appropriations.* — The amount necessary for the implementation of this Act including the funding for the establishment, yearly operations and maintenance of the ONTA shall be included in the Annual General Appropriations Act.

SEC. 17. *Implementing Rules and Regulations.* — Within sixty (60) calendar days from the effectivity of this Act, the DOJ, in consultation with the DOF, DBM, DILG, BIR, BOC, Civil Service Commission (CSC), CHED, ARTA, and the private sector shall promulgate the necessary rules and regulations, for the effective implementation of this Act.

SEC. 18. *Separability Clause.* — If any provision of this Act is declared invalid or unconstitutional, other provisions hereof which are not affected thereby shall remain in full force and effect.

SEC. 19. *Repealing Clause.* — All laws, orders, decrees, rules and regulations, and other parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 20. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,