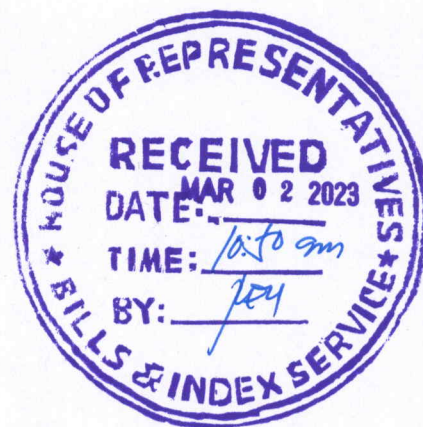


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 7403



Introduced by Rep. LORETO B. ACHARON

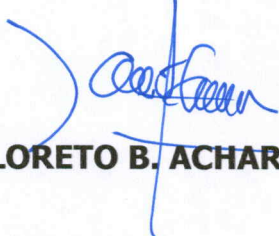
EXPLANATORY NOTE

This bill seeks to legislate a "Taxpayers Bill of Rights and Obligations" to address the systemic problem of abuses or harassment of a number of officers and employees of the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC).

Not only is this measure primarily aimed to protect taxpayers against threats on their rights, particularly unwarranted pressures arising from the undue exercise of discretion by tax authorities, the bill also includes fundamental information to make taxpayers aware of their basic rights and obligations without the need to consult the tax code and numerous tax laws and statutes that are too many and complex to understand, given that these rights are not new and are even already enshrined in the 1987 Philippine Constitution.

A National Taxpayers' Advocate Office is also hereby created to ensure that not only these rights are safeguarded but also to serve as the champion of every taxpayer, and provide remedies for taxpayer's concerns, more particularly those who are taken advantage of or ignored.

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


LORETO B. ACHARON

Republic of the Philippines
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NINETEENTH CONGRESS
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HOUSE BILL NO. 7403

Introduced by Rep. LORETO B. ACHARON

**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:*

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

3
4 **SEC. 2. Declaration of Policy.** — It is hereby declared the policy of the State
5 to provide increased protection of taxpayers' rights in complying with their obligation
6 to pay national and local taxes to the government, to the end that abuses committed
7 against taxpayers are prevented, if not completely eradicated, and taxes are collected
8 responsibly, with due regard for taxpayers' rights. In turn, taxpayers are expected to
9 faithfully comply with their tax obligations to the government.

10
11 **SEC. 3. Definition of Terms.** — As used in this Act, the following terms shall
12 mean:

13 a) *Assessment* refers to the process of determining the amount of taxes, duties, and
14 other charges to be paid by the taxpayer;

1 b) *Revenue Authority* refers, singly or collectively, to the Bureau of Internal Revenue
2 (BIR), Bureau of Customs (BOC), Local Government Units (LGUs), and other tax
3 collecting agencies;

4
5 c) *Revenue Officers* refer to the officers, employees, and agents of the revenue
6 authorities;

7
8 d) *Summary Collection* refers to the civil remedy of the government for the collection
9 of accounts receivable or delinquent accounts by garnishment or distraint of personal
10 property, or levy of real property;

11
12 e) *Taxes* refer to all taxes imposed under the National Internal Revenue Code (NIRC)
13 of 1997, as amended, the Customs Modernization and Tariff Act of 2016, the Local
14 Government Code of 1991, as amended, and all other tax laws, rules and regulations,
15 including those collected by other tax collecting agencies;

16
17 f) *Taxpayer* refers to any person, whether natural or juridical, subject to the tax
18 imposed by the national and local government; and

19
20 g) *Tax Audit* refers to the examination into a taxpayer's obligation, and compliance
21 with tax laws, rules and regulations by the BIR, BOC, LGUs, or other tax collecting
22 agencies, as the case may be.

23
24 **SEC. 4. *Taxpayer's Bill of Rights and Obligations.*** — Notwithstanding the
25 rights and remedies of the taxpayer provided for in the National Internal Revenue
26 Code (NIRC) of 1997, as amended; Customs Modernization and Tariff Act (CMTA);
27 Republic Act (RA) No. 1125, creating the Court of Tax Appeals (CTA), as amended;
28 Book II of the Local Government Code of 1991, as amended; and all other laws, rules
29 and regulations, issuances, and circulars in support thereof, the taxpayer is hereto
30 granted basic taxpayer rights, whether at the administrative level or at the judicial
31 level. *Provided,* That nothing in this Act shall amend the jurisdiction of the courts and

1 quasi-judicial agencies, as provided for by law, nor deprive the Judiciary of its power
2 to promulgate rules and procedures in all courts.

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

6
7 **SEC. 5. *Taxpayer's Basic Rights.*** — The following are the taxpayer's basic
8 rights:

9 a) *Right to Information.* – The taxpayer shall have the right to know in a simplified
10 manner how one can comply with laws, rules and regulations implemented by revenue
11 authorities. The taxpayer is entitled to clear, complete, accurate, and simplified
12 explanation of tax laws, rules, regulations, and procedures, as well as be apprised of
13 taxpayer's rights and obligations in all tax forms, publications, notices,
14 correspondences, assessments, rulings, and decisions.

15
16 In case of any deficiency tax findings or alleged violations, the taxpayer shall have
17 the right to be clearly and sufficiently informed in writing of the facts and laws
18 thereon, including any supporting computation or documentation, or both, upon
19 which they are based, at the same time such findings or violations are communicated.

20
21 Unless prejudicial to the government, the taxpayer shall have the right to be informed
22 of any impending institution by revenue authorities of a summary collection action,
23 which requires sale or seizure of property or the freezing of assets.

24
25 b) *Right to fair and faithful application of laws.* - The taxpayer shall have the right to
26 a fair and faithful application of laws, rules, regulations, and other issuances of
27 revenue authorities in all proceedings involving the taxpayer.

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

1

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

6

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

11

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

16

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

20

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

25

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

30

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

1
2 *j) Right to relief from paying interests and penalties.* – The taxpayer shall be entitled
3 to a reduction of interests and penalties levied on their tax liabilities in case of any
4 unjustifiable error or delay caused by the revenue authorities, including instances of
5 loss of records, personnel transfers, extended illness or leaves of absence, and
6 personnel training, resignation, retirement, or termination from service of the
7 concerned personnel.

8
9 *k) Right to recover actual costs and actual damages arising from judicial actions.* –
10 The taxpayer shall have the right to recover actual costs and actual damages,
11 including attorney's fees and expenses of litigation, arising from judicial actions, as
12 may be determined by a court of competent jurisdiction.

13
14 *l) Right to quality service and assistance.* – The taxpayer shall have the right to be
15 treated professionally, courteously, fairly, and reasonably by revenue authorities.

16
17 *m) Right to privacy.* – The taxpayer shall have the right to privacy of communication
18 and correspondence, as guaranteed by the Constitution, and the Data Privacy Act of
19 2012. The taxpayer shall have the right to demand that any information provided to
20 revenue authorities shall not be disclosed and shall be kept confidential, unless
21 disclosure is expressly authorized by law or by the taxpayer.

22
23 **SEC. 6. Taxpayer's Basic Obligations.** – Complementary to the above
24 taxpayer's rights are the following duties and responsibilities of the taxpayer:

25
26 a) Observe and comply with tax laws, rules, and regulations;

27 b) Truthfully and timely disclose complete and correct information as required by tax
28 laws, rules, and regulations, including but not limited to, registered address, official
29 email address, registered activities, tax type details, and accounting period;

1 c) Lodge and submit, either personally or through electronic means, in a timely
2 manner all relevant information, books of accounts, reports, records, returns, and
3 other documents to revenue authorities on or before the dates set by tax laws, rules,
4 and regulations;

5
6 d) Exercise reasonable care and diligence in complying with all tax obligations;

7
8 e) Keep accurate records of the required books of accounts and other tax information
9 for the duration required by law, rules, and regulations, and make them available for
10 examination by revenue officers following proper procedures;

11
12 f) Cooperate with revenue authorities in the latter's conduct of tax audits in
13 accordance with laws, rules, and regulations; and

14
15 g) Timely pay the taxes due to the government through any available payment
16 channels.

17
18 **SEC. 7. *Creation of the Office of the National Taxpayer Advocate.* —**

19 In order to protect the rights of taxpayers, both substantive and procedural, the ONTA
20 is hereby created to promote tax compliance and assist taxpayers. The ONTA shall be
21 an independent and autonomous office attached to the Department of Justice (DOJ)
22 for purposes of policy and program coordination.

23 The ONTA shall have the power to provide for the structural organization and
24 staff of its offices and shall have the power and authority to designate and appoint
25 officers and employees of the Office and create divisions and units, including regional
26 or provincial offices, as may be necessary, subject to the approval of the Department
27 of Budget and Management (DBM) and in accordance with civil service laws, rules,
28 and regulations: *Provided*, That all employees shall be subject to Republic Act No.
29 6758, otherwise known as the Salary Standardization Act.

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

4
5 a) Assist the public in their tax queries and concerns relative to taxes;

6
7 b) Represent taxpayers, and assist, initiate, and intervene, as may be applicable, in
8 tax cases, complaints, and proceedings, after due evaluation: *Provided*, That the
9 qualifications and disqualifications of taxpayers who shall be given priority in the
10 ONTA's representation services shall be in relation to Section 5(e) of this Act.

11
12 c) Engage in regular information, education, and communication programs for all
13 taxpayers on tax laws, rules, regulations, circulars, including those that implement
14 Supreme Court decisions, and other issuances that affect them, including their rights
15 and remedies under the law;

16
17 d) Recommend remedial administrative measures to revenue authorities by way of
18 continuing policy review, and to the Anti-Red Tape Authority for purposes of reducing
19 regulatory burden to taxpayers;

20
21 e) Monitor tax issuances of revenue authorities, and propose recommendations, when
22 necessary, at the administrative level, to ensure that taxpayers' rights as provided in
23 this Act are upheld;

24
25 f) Develop capacity building programs, and conduct the necessary trainings for the
26 officials and employees of ONTA; and

27 g) Perform such other powers and functions as may be necessary to enhance the
28 ONTA's performance of its powers, functions, and responsibilities, as enumerated in
29 this Act.

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

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

12
13 **SEC. 10. *Appointment, Term, and Rank.*** – The Chief Taxpayer Advocate
14 and Deputy Taxpayer Advocates shall be appointed by the President: *Provided,* That
15 the appointment of the Deputy Taxpayer Advocates shall be upon the
16 recommendation of the Chief Taxpayer Advocate. They shall both serve for a fixed
17 term of seven (7) years with one (1) re-appointment.

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

22
23 **SEC. 11. *Disqualification.*** – An individual cannot be appointed as the Chief
24 Taxpayer Advocate or Deputy Taxpayer Advocate if such individual has been an
25 employee or officer of, or has rendered service as consultant or in any other capacity
26 to any of the revenue authorities for two (2) years prior to such appointment.

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

1 To this end, the ONTA shall submit a detailed report on its activities and
2 identified problem areas, either personally or through electronic means, to the
3 COCCTRP on or before December 31 of every year, copy furnished the Secretary of
4 Finance, particularly on identified areas in which taxpayers have problems in dealing
5 with revenue authorities.

6
7 Afterwards, on or before June 1 of every year, the Secretary of Finance shall
8 submit a report in relation to the ONTA's report, either personally or through
9 electronic means, to the COCCTRP and shall include appropriate remedial action, if
10 any, or proposed legislation, and other recommendations on the proper
11 implementation of this Act.

12
13 **SEC. 13. *Penalties for the Violation of the Bill of Rights of Taxpayers.***

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

22
23 **SEC. 14. *Accessibility of the Taxpayer's Bill of Rights and Obligations.***

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

27 **SEC. 15. *Integration of Taxpayer's Bill of Rights and Obligations in***
28 ***Higher Education curriculum.*** — All public and private higher education institutions
29 shall integrate the Taxpayer's Bill of Rights and Obligations as part of the curriculum.
30 The Commission on Higher Education (CHED), pursuant to its mandate under RA No.

1 7722, otherwise known as the "Higher Education Act of 1994," shall develop the
2 program to execute and implement this Section.

3
4 **SEC. 16. *Appropriations.*** — The amount necessary for the implementation
5 of this Act including the funding for the establishment, yearly operations and
6 maintenance of the ONTA shall be included in the Annual General Appropriations Act.

7
8 **SEC. 17. *Implementing Rules and Regulations.*** — Within sixty (60)
9 calendar days from the effectivity of this Act, the DOJ, in consultation with the DOF,
10 DBM, DILG, BIR, BOC, Civil Service Commission (CSC), CHED, ARTA, and the private
11 sector shall promulgate the necessary rules and regulations, for the effective
12 implementation of this Act.

13
14 **SEC. 18. *Separability Clause.*** — If any provision of this Act is declared
15 invalid or unconstitutional, other provisions hereof which are not affected thereby
16 shall remain in full force and effect.

17
18 **SEC. 19. *Repealing Clause.*** — All laws, orders, decrees, rules and
19 regulations, and other parts thereof inconsistent with the provisions of this Act are
20 hereby repealed, amended or modified accordingly.

21
22 **SEC. 20. *Effectivity.*** — This Act shall take effect fifteen (15) days after its
23 publication in the Official Gazette or in at least two (2) national newspapers of general
24 circulation.

Approved,