

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

Nineteenth Congress
First Regular Session

House Bill No. 7653



Introduced by **Representative JOEY SARTE SALCEDA**

AN ACT
DEFINING THE CRIME OF TAX RACKETEERING, ADDING FOR THE
PURPOSE A SECTION 157-A TO THE NATIONAL INTERNAL REVENUE CODE,
AS AMENDED, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

According to estimates by tax authorities, as much as P100 billion in revenues are being evaded due to the padding of deductions and input tax credits through the systematic and fraudulent use of fake receipts and other records.

In March 17, 2023 alone, the Bureau of Internal Revenue announced the filing of charges for evasion of taxes worth P25.5 billion against corporations using fictitious receipts, following a December 2022 raid on the corporations Buildforce Trading Inc, Crazykitchen Foodtrade Corp., Decarich Supertrade Inc., Redington Corporation. BIR alleges that these corporations have been operating for more than three years.

These corporations do not have any legitimate business activity, and were set only to sell fictitious sales invoices or receipts to their buyers for the latter's claim of false and anomalous purchases. These receipts or invoices are called "ghost receipts," and economists have called the practice "ghosting the tax authority¹."

According to the BIR, the fraudulent operations of these corporations have resulted in some P17.63 billion in foregone income taxes and total deficiency value added tax amounting to P7.91 billion, for taxable years 2019-2021.

¹ Carrillo, Paul E. and Donaldson, Dave and Donaldson, Dave and Pomeranz, Dina and Singhal, Monica, Ghosting the Tax Authority: Fake Firms and Tax Fraud (July 2022). NBER Working Paper No. w30242, Available at SSRN: <https://ssrn.com/abstract=4165314> or <http://dx.doi.org/10.2139/ssrn.4165314>

While the crime of tax evasion is punished under the Tax Code, it does not define the systematic and coordinated evasion of taxes, which in every essential manner is economic sabotage, going by the doctrine that taxes are the lifeblood of the State.

Schemes such as these should be distinguished from the usual attempt to evade taxes precisely because they constitute a systematic attempt to dismantle the credibility of the entire tax system, and could not be committed without networks of accomplices across the business sector and among tax authorities.

Because of the scale of their operations, unlike individual acts of tax evasion, systematic attempts to use fictitious transactions to evade taxes could completely undermine the tax system.

This Act proposes to define the offense of tax racketeering as “any coordinated scheme or operation to repeatedly or consistently evade or defeat any tax imposed under this Code through the fraudulent use of receipts, returns, and other records, with a minimum amount of Ten Million Pesos (P10,000,000.00) in taxes avoided or attempted to be avoided.”

This Act also defines being a principal in such an offense as non-bailable, and subject to 17 to 20 years in prison. Taxpayers who benefit from tax racketeering, including those who purchase fake receipts, shall be punished as accessories. Meanwhile, public officials who facilitate such activities shall be charged as accomplices and punished with perpetual disqualification from public office.

The stiffer penalties aim to be a deterrent to the commission of such crimes, as well as a tool for tax authorities to be able to prosecute such offenses in a manner distinct from usual tax evasion.

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

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a series of loops and a final flourish.

JOEY SARTE SALCEDA

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SEC. 1. A new Section 157-A is hereby inserted after Section 157 of the National Internal Revenue Code, as amended, to read as follows:

SEC. 157-A. *Tax racketeering.* Any person who engages or attempts to engage in any coordinated scheme or operation to repeatedly or consistently evade or defeat any tax imposed under this Code through the fraudulent use of receipts, returns, and other records, with a minimum amount of Ten Million Pesos (P10,000,000.00) in taxes avoided or attempted to be avoided, shall, in addition to other penalties provided by law, upon conviction thereof, suffer imprisonment of not less than seventeen (17) years but not more than twenty (20) years: Provided, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes: *Provided further*, that offenses punished under this section shall be non-bailable.

In the case of corporations, nongovernment organizations, associations, cooperatives, or single proprietorships engaged in tax racketeering, the penalties under this section shall be imposed on the officers and on employees and individuals without whose participation the offense could not be committed.

Accomplices, or persons who cooperate in the execution of the offense punished under this section shall, in addition to other penalties provided by law, upon conviction thereof, suffer imprisonment of not less than ten (10) years but not more than seventeen (17) years.

Persons who having knowledge of the commission of the crime, and without having participated therein, either as principals or accomplices, take part subsequent to its commission of tax racketeering, including as taxpayers profiting from the activities punished under this section shall, in addition to other penalties provided by law, upon conviction thereof, suffer imprisonment of not less than six (6) years but not more than ten (10) years.

Any public official who aids and abets the commission of the offense punished under this Section shall, in addition to being charged as an accomplice, suffer the penalty of perpetual disqualification from any public office.

SEC. 2. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

SEC. 3. *Repealing Clause.* – All laws, presidential decrees, executive orders, rules and regulations and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 4. *Effectivity.* -- This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation in the Philippines.

Approved,