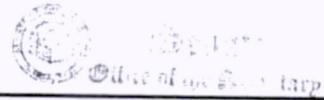


SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

SENATE



COMMITTEE REPORT No. 488

'18 OCT -9 P12:38

Submitted by the Committee on Ways and Means on OCT - 9 2018

Re: Senate Bill No. 2059

RECEIVED

Recommending its approval in substitution of Senate Bill Nos. 293, 920, 942, and 1494 taking into consideration House Bill No. 4814.

Sponsor: Sen. Sonny Angara

MR. PRESIDENT:

The Committee on Ways and Means to which were referred Senate Bill No. 293, introduced by Senators Pimentel III and Binay, entitled:

AN ACT

DECLARING A ONE-TIME AMNESTY ON ESTATE TAX, INCLUSIVE OF FINES, INTEREST, PENALTIES, SURCHARGES AND OTHER ADDITIONS THERETO, AND FOR OTHER PURPOSES"

S.B. No. 920, introduced by Senator Recto, entitled:

AN ACT

ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2015 AND PRIOR YEARS

S.B. No. 942, introduced by Senators Angara and Binay, entitled:

AN ACT

ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2015 AND PRIOR YEARS

S.B. No. 1494, introduced by Senator Aquino IV, entitled:

AN ACT

ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2015 AND PRIOR YEARS

and House Bill 4814, introduced by Representatives Defensor, Quimbo, *et al.*, entitled:

**AN ACT
GRANTING AMNESTY IN THE PAYMENT OF ESTATE TAX**

has considered the same and has the honor to report these back to the Senate with the recommendation that the attached bill, Senate Bill No. **2059**, prepared by the Committee, entitled:

**AN ACT
ENHANCING REVENUE ADMINISTRATION AND COLLECTION, AND
BROADENING THE TAX BASE BY GRANTING AN AMNESTY ON ALL
UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL
GOVERNMENT FOR TAXABLE YEAR 2017 AND PRIOR YEARS WITH
RESPECT TO ESTATE TAX, OTHER INTERNAL REVENUE TAXES, AND TAX
ON DELINQUENCIES AND ADDRESSING CROSS-BORDER TAX EVASION
AND FOR OTHER PURPOSES**

be approved in substitution of Senate Bill Nos. 293, 920, 942, and 1494 taking into consideration House Bill No. 4814 with Senators Pimentel III, Binay, Recto, Angara, and Aquino IV as authors.

Respectfully Submitted:



SONNY ANGARA
Chairperson

Vice-Chairpersons

LOREN B. LEGARDA

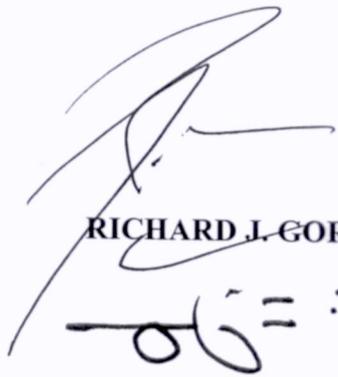


JOEL VILLANUEVA



PAOLO BENIGNO "BAM" AQUINO IV

Members



RICHARD J. GORDON



GRACE POE

JOSEPH VICTOR G. EJERCITO



MARIA LOURDES NANCY S. BINAY

WIN GATCHALIAN



FRANCIS "CHIZ" G. ESCUDERO



PANFILO M. LACSON



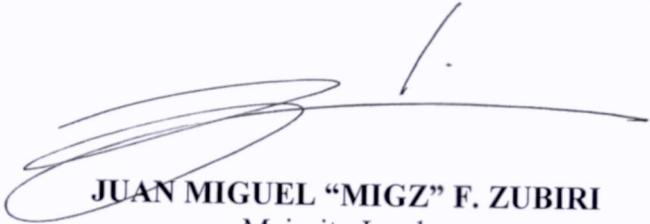
ANTONIO TRILLANES IV

FRANCIS "KIKO" PANGILINAN

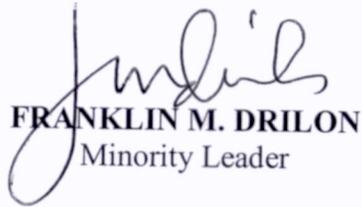


RISA HONTIVEROS

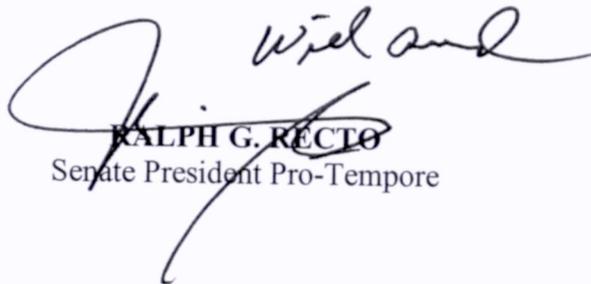
Ex-Officio Members



JUAN MIGUEL "MIGZ" F. ZUBIRI
Majority Leader

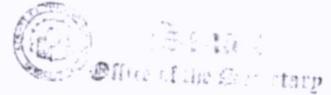


FRANKLIN M. DRILON
Minority Leader



RALPH G. RECTO
Senate President Pro-Tempore

VICENTE C. SOTTO III
President
Senate of the Philippines
Pasay City



(In Substitution of S.B. Nos. 293, 920, 942, and 1494, and H. No. 4814)

'18 OCT -9 P12 :38

Prepared by the Committee on Ways and Means with Senators Pimentel III,
Binay, Recto, Angara, and Aquino IV, as authors

RECEIVED

AN ACT
ENHANCING REVENUE ADMINISTRATION AND COLLECTION, AND BROADENING THE TAX BASE
BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE
NATIONAL GOVERNMENT FOR TAXABLE YEAR 2017 AND PRIOR YEARS WITH RESPECT TO
ESTATE TAX, OTHER INTERNAL REVENUE TAXES, AND TAX ON DELINQUENCIES AND
ADDRESSING CROSS-BORDER TAX EVASION AND FOR OTHER PURPOSES

TITLE I

PRELIMINARY PROVISIONS

SECTION 1. Short Title. – This Act shall be known as the “Tax Amnesty Act of 2018”.

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect and enhance revenue administration and collection that will make the country’s tax system more equitable, and to simplify the tax compliance requirements. Towards this end, the State shall:

- a) Provide a one-time opportunity to settle estate tax obligations through a tax amnesty program that will give reasonable tax relief;
- b) Broaden the tax base by offering a general tax amnesty for unpaid internal revenue taxes that would help cleanse, organize, and improve the Bureau of Internal Revenue’s (BIR) database;
- c) Enhance revenue collection by providing tax amnesty on delinquencies in order to minimize administrative cost in pursuing tax cases and de-clog the tax case dockets pending in various courts;
- d) Provide a more equitable tax system by adopting a comprehensive tax reform program that will simplify the tax requirements on tax amnesties with the use of simplified forms, and utilizing information technology in broadening the tax base; and
- e) Address and detect cross-border tax evasion by instituting internationally-accepted standards on exchange of information.

1 **SEC. 6. Entitlement Under Estate Tax Amnesty.** – Except for instances covered by Section 8
2 hereof, the estate, its heirs and beneficiaries may enjoy the immunities and privileges of the Estate Tax
3 Amnesty under this Title and pay an estate amnesty tax at the rate of six percent (6%) based on the
4 decedent's total net estate at the time of death, if no estate tax return was filed, or net undeclared estate if
5 an estate tax return was previously filed with the BIR. The provisions of the National Internal Revenue
6 Code (NIRC), as amended, on valuation, manner of computation, and other related matters shall apply
7 suppletorily, at the time of entitlement.

8 **SEC. 7. When and Where to File and Pay.** – The Estate Tax Amnesty Return shall be filed
9 within two (2) years from the effectivity of the IRR. The Return shall be under oath and shall sufficiently
10 contain the particulars of the properties forming part of the estate. It shall be filed at the Revenue District
11 Office (RDO), which has jurisdiction over the last residence of the decedent: *Provided*, That, for non-
12 residents who have properties in the Philippines, it shall be filed at Revenue District Office No. 39, or any
13 other Revenue District Office which may be indicated in the IRR.

14 The payment of the estate amnesty tax shall be made at the time the return is filed. The Revenue
15 District Officer shall issue an acceptance payment form, in such form as may be prescribed in the IRR of
16 this Act for the authorized agent bank, or in the absence thereof, the collection agent or municipal treasurer
17 concerned, to accept the amnesty tax payment. Proof of settlement of the estate, whether judicial or
18 extrajudicial, should likewise be attached to said Return in order to verify the mode of transfer and the
19 proper recipients.

20 **SEC. 8. Exceptions.** – The Estate Tax Amnesty under Title II of this Act shall not extend to the
21 following persons or cases existing as of the effectivity of this Act:

- 22 a. Those involving pending cases under the jurisdiction of the Presidential Commission on
23 Good Government (PCGG);
- 24 b. Those involving pending cases on unexplained or unlawfully acquired wealth or under the
25 Anti-Graft and Corrupt Practices Act;
- 26 c. Those involving pending cases filed in the appropriate court involving violations of the Anti-
27 Money Laundering Law;
- 28 d. Those with pending criminal cases for tax evasion and other criminal offenses under
29 Chapter II of Title X of the NIRC, as amended;

- 1 e. Those involving felonies of frauds, illegal exactions and transactions, and malversation of
2 public funds and property under Chapters III and IV of Title VII of the Revised Penal Code;
3 and
4 f. Tax cases subject of final and executory judgment by the courts.

5 **SEC. 9. Immunities and Privileges.** – Estates covered by the Estate Tax Amnesty, which have
6 fully complied with all the conditions set forth in this Act and upon payment of the estate amnesty tax shall
7 be immune from the payment of estate taxes, as well as increments and additions thereto, arising from the
8 failure to pay any and all estate taxes for taxable year 2017 and prior years, and from all appurtenant civil,
9 criminal, and administrative cases and penalties under the NIRC, as amended.

10 Without prejudice to compliance with applicable laws on succession as a mode of transfer, the
11 BIR, in coordination with the applicable regulatory agencies, shall set up a system enabling the transfer of
12 title over properties to heirs and/or beneficiaries, including cash withdrawals of the heirs on the bank
13 account of the decedent, when applicable.

14 TITLE III

15 GENERAL TAX AMNESTY

16 **SEC. 10. Coverage.** – There is hereby authorized and granted a tax amnesty, hereinafter called
17 General Tax Amnesty, which shall cover all national internal revenue taxes, including value-added tax
18 (VAT) and excise taxes collected by the Bureau of Customs (BOC) for taxable year 2017 and prior years,
19 with or without assessments duly issued therefore, that have remained unpaid: *Provided, However, That*
20 the General Tax Amnesty hereby authorized and granted shall not cover persons or cases enumerated
21 under Section 15 hereof.

22 **SEC. 11. Availment of the General Tax Amnesty.** – Any person, natural or juridical, who avails of
23 the General Tax Amnesty authorized and granted under Title III of this Act shall file with the BIR a General
24 Tax Amnesty Return accompanied by a notarized SALN as of December 31, 2017.

25 **SEC. 12. Contents of the SALN.** – The SALN shall contain a true and complete declaration of
26 assets, liabilities and networth of the taxpayer as of December 31, 2017, as follows:

- 27 a. Assets within or without the Philippines, whether real or personal, tangible or intangible, whether
28 or not used in trade or business:

- 1 1. Real properties shall be accompanied by a description of their classification, exact
2 location, and valued at acquisition cost, if acquired by purchase, or the zonal valuation or
3 fair market value as shown in the schedule of values of the provincial, city or municipal
4 assessors, whichever is higher, if acquired through inheritance or donation;
- 5 2. Personal properties other than money, shall be accompanied by a specific description of
6 the kind and number of assets (*i.e.* automobiles, shares of stock, etc.) or other
7 investments, indicating the acquisition cost less depreciation or amortization, in proper
8 cases, if acquired by purchase, or the fair market price or value at the time of receipt, if
9 acquired through inheritance or donation;
- 10 3. Assets denominated in foreign currency shall be converted into the corresponding
11 Philippine currency equivalent, at the rate of exchange prevailing as of the date of the
12 SALN; and
- 13 4. Cash on Hand and in Bank in peso as of the date of the SALN, as well as Cash on Hand
14 and in Bank in foreign currency, converted to Philippine peso as of the date of the SALN.
- 15 b. All existing liabilities, which are legitimate and enforceable, secured or unsecured, whether or
16 not incurred in trade or business, disclosing or indicating clearly the name and address of the
17 creditor and the amount of the corresponding liability.
- 18 c. The total networth of the taxpayer, which shall be the difference between the total assets and
19 total liabilities.

20 **SEC. 13. Entitlement to Tax Amnesty.** – Except for the instances covered in Section 15 hereof,
21 any person, whether natural or juridical, may avail of the benefits of tax amnesty under Title III of this Act,
22 and pay an amnesty tax based on the taxpayer's total networth as of December 31, 2017 as declared in the
23 SALN filed pursuant to Section 11 hereof and in accordance with the following schedule of amnesty tax
24 rates and minimum amnesty tax payments required:

- 25 a. Individual (whether resident or
26 non-resident citizens, including resident
27 or non-resident aliens), Trusts and Estates5% or P100,000, whichever is higher
- 28 b. Corporations
- 29 1. With subscribed capital of above P50 million.....5% or P1,000,000, whichever is higher

- 1 2. With subscribed capital of above P20 million5% or P500,000, whichever is higher
- 2 up to P50 million
- 3 3. With subscribed capital of P5 million 5% or P250,000, whichever is higher
- 4 up to P20 million
- 5 4. With subscribed capital of below P5 million..... 5% or P100,000, whichever is higher
- 6 c. Other juridical entities, including, but not
- 7 limited to, cooperatives and foundations, that
- 8 have become taxable as of December 31, 2017..... 5% or P100,000, whichever is higher

9 *Provided*, That if the tax amnesty is availed based on the period indicated hereunder, the
 10 corresponding rates shall apply:

- 11 a. If paid on or before the end of the third calendar
- 12 month from the effectivity of the IRR4.00 %
- 13 b. If paid after the end of the third calendar month
- 14 until the end of the sixth calendar month from the
- 15 effectivity of the IRR4.25%
- 16 c. If paid after the end of the sixth calendar month
- 17 until the end of the ninth calendar month from the
- 18 effectivity of the IRR4.50%

19 **SEC. 14. *When and Where to File and Pay.*** – The filing of the General Tax Amnesty Return shall
 20 be made within one (1) year from the effectivity of the IRR. It shall be filed at the RDO or the Large
 21 Taxpayer District Offices, which has jurisdiction over the legal residence or principal place of business of
 22 the taxpayer. The Revenue District Officer shall issue an acceptance of payment form, in such form as may
 23 be prescribed in the IRR of this Act for the authorized agent bank or in the absence thereof, the collection
 24 agent or municipal treasurer concerned, to accept the amnesty payment.

25 The payment of the general amnesty tax shall be made at the time the return is filed.

26 **SEC. 15. *Exceptions.*** – The General Tax Amnesty provided in Section 13 hereof shall not extend
 27 to the following instances existing as of the effectivity of this Act:

- 28 a. Withholding tax agents who withheld taxes but failed to remit the same to the BIR;
- 29 b. Those involving pending cases falling under the jurisdiction of the PCGG;

- 1 c. Those involving pending cases on unexplained or unlawfully acquired wealth or under the
- 2 Anti-Graft and Corrupt Practices Act;
- 3 d. Those involving pending cases filed in appropriate court involving violation of the Anti-Money
- 4 Laundering Law;
- 5 e. Those involving pending criminal cases with the Department of Justice or the courts for tax
- 6 evasion and other criminal offenses under Chapter II of Title X of the NIRC, as amended, with
- 7 or without assessments duly issued;
- 8 f. Those involving felonies of frauds, illegal exactions and transactions, and malversation of
- 9 public funds and property under Chapters III and IV of Title VII of the Revised Penal Code;
- 10 g. Tax cases subject of final and executory judgment by the courts; and
- 11 h. Delinquencies and assessments that have become final and executory.

12 **SEC. 16. *Presumption of Correctness of the SALN.*** – The SALN as of December 31, 2017 shall be
13 considered as true and correct except where the amount of declared network is understated to the extent
14 of thirty percent (30%) or more as may be established in proceedings initiated by, or at the instance of,
15 parties other than the BIR or its agents: *Provided*, That proceedings must be initiated within one (1) year
16 from the date of the filing of the Tax Amnesty Return and the SALN.

17 Findings of or admission in congressional hearings, other administrative agencies of government,
18 and/or courts shall be admissible to prove a thirty percent (30%) under-declaration.

19 **SEC. 17. *Immunities and Privileges.*** – Those who avail of the General Tax Amnesty and have fully
20 complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be entitled
21 to the following immunities and privileges:

- 22 a. With respect to the years covered by the tax amnesty, the taxpayer shall be immune from the
- 23 payment of taxes, as well as additions thereto, and from all appurtenant civil, criminal, and
- 24 administrative cases and penalties under the NIRC, as amended, arising from the failure to pay
- 25 any and all internal revenue taxes for taxable year 2017 and prior years and from such other
- 26 investigations or suits insofar as they relate to the assets, liabilities, network and internal revenue
- 27 taxes that are subject of the tax amnesty.
- 28 b. Any information or data contained in, derived from or provided by a taxpayer in the tax amnesty
- 29 return, SALN and appurtenant documents shall be confidential in nature and shall not be used in

1 any investigation or prosecution before any judicial, quasi-judicial and administrative bodies.
2 However, the taxpayer may use this as a defense, whenever appropriate, in cases brought
3 against him.

4 c. The books of accounts and other records of the taxpayer for the years covered by the tax
5 amnesty availed of shall not be examined by the BIR: *Provided*, That the Commissioner of
6 Internal Revenue may authorize in writing the examination of the said books of accounts and
7 other records to verify the validity or correctness of a claim for any tax refund, tax credit (other
8 than refund or credit of taxes withheld on wages), tax incentives, and/or exemptions under
9 existing laws.

10 All these immunities and privileges shall not apply when the person failed to file a Tax Amnesty
11 Return and a SALN.

12 TITLE IV

13 TAX AMNESTY ON DELINQUENCIES

14 **SEC. 18. Coverage.** – There is hereby authorized and granted a tax amnesty herein called the Tax
15 Amnesty on Delinquencies (TAD), which shall cover all national internal revenue taxes, including VAT and
16 excise taxes collected by the BOC, for taxable year 2017 and prior years.

17 For purposes of this Act, the TAD may be availed on the following instances:

18 a. Delinquencies and assessments, which have become final and executory, including delinquent
19 tax account, where the application for compromise is requested on the basis of: i) doubtful
20 validity of the assessment; or ii) financial incapacity of the taxpayer, but the same was denied by
21 the Regional Evaluation Board (REB) or the National Evaluation Board (NEB), as the case may
22 be, on or before the IRR take effect;

23 b. Pending criminal cases with the Department of Justice or the courts for tax evasion and other
24 criminal offenses under Chapter II of Title X of the NIRC, as amended, with or without
25 assessments duly issued; and

26 c. Tax cases subject of final and executory judgment by the courts on or before the IRR take effect.

27 **SEC. 19. Availment of the TAD.** – Any person, natural or juridical, who avails of the TAD authorized
28 and granted under Title IV of this Act, shall file with the BIR a TAD Return accompanied by a Certificate of
29 Delinquency in the manner prescribed by the IRR.

1 **SEC. 20. Entitlement to TAD.** – Any person, whether natural or juridical, who avails of the TAD shall
2 pay the following amnesty tax rates:

3 a. Delinquencies and assessments which have become
4 final and executory40% of the basic tax assessed

5 b. Subject of pending criminal cases with criminal information
6 filed with the Department of Justice or the courts for tax evasion
7 and other criminal offenses under Chapter II of Title X of the
8 NIRC, as amended, with assessments duly issued and otherwise
9 excluded in Titles II and III hereof50% of the basic tax assessed

10 c. Tax cases subject of final and executory judgment
11 by the courts60% of the basic tax assessed

12 For purposes of this Section, "Basic Tax Assessed" shall mean the latest amount of tax
13 assessment issued by the BIR against the taxpayer, whether it be preliminary, final or final decision on
14 disputed assessment, exclusive of interests, penalties and surcharges.

15 **SEC. 21. When and Where to File and Pay.** – The filing of the TAD Return shall be made within one
16 (1) year from the effectivity of the IRR. It shall be filed at the office of the RDO, which has jurisdiction over
17 the legal residence or principal place of business of the taxpayer.

18 The payment of the delinquency amnesty tax shall be made at the time the return is filed and in
19 the manner prescribed by the IRR. The Revenue District Officer shall issue an acceptance of payment form
20 in such form as may be prescribed in the IRR of this Act for the authorized agent bank or in the absence
21 thereof, the collection agent or municipal treasurer concerned, to accept the amnesty tax payment.

22 **SEC. 22. Immunities and Privileges.** – The tax delinquency of those who avail the TAD and have
23 fully complied with all the conditions set forth in this Act and upon payment of the amnesty tax shall be
24 considered settled and terminated, and the taxpayer shall be immune from all suits or actions, including the
25 payment of said delinquency or assessment, as well as additions thereto, and from all appurtenant civil,
26 criminal, and administrative cases, and penalties under the NIRC, as amended, as such relate to the
27 taxpayer's assets, liabilities, networth and internal revenue taxes that are subject of the tax amnesty, and
28 from such other investigations or suits insofar as they relate to the assets, liabilities, networth and internal
29 revenue taxes that are subject of the tax amnesty: *Provided*, That any notices of levy, attachments and/or

1 warrants of garnishment issued against the taxpayer shall be set aside pursuant to a lifting of notice of
2 levy/garnishment duly issued by the BIR or its authorized representative: *Provided, Further,* That the
3 Authority to Cancel Assessment (ATCA) shall be issued in favor of the taxpayer availing of the TAD.

4 TITLE V

5 EXCHANGE OF INFORMATION

6 **SEC. 23.** Section 6 of the NIRC, as amended, is hereby further amended to read as follows:

7 ***“Sec. 6. Power of the Commissioner to Make Assessments and Prescribe Additional***
8 ***Requirements for Tax Administration and Enforcement –***

9 xxx

10 A. Examination of Returns and Determination of Tax Due. – xxx

11 xxx xxx xxx

12 F. Authority of the Commissioner to Inquire into **AND RECEIVE INFORMATION ON** Bank
13 **[Deposit] Accounts and Other Related [Information] DATA** Held by Financial Institutions. –
14 Notwithstanding any contrary provision of Republic Act No. 1405, **OTHERWISE KNOWN**
15 **AS THE BANK SECRECY LAW**, Republic Act No. 6426, otherwise known as the Foreign
16 Currency Deposit Act of the Philippines, and other general or special laws, the
17 Commissioner is hereby authorized to inquire into **AND RECEIVE INFORMATION ON** the
18 bank deposits and other related **[information] DATA** held by financial institutions of:

19 (1) A decedent to determine his gross estate; and

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

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

1 (3) A specific taxpayer or taxpayers, **UPON A LEGAL OBLIGATION TO EXCHANGE TAX**
2 **INFORMATION WITH FOREIGN TAX AUTHORITY, WHETHER ON REQUEST OR**
3 **AUTOMATIC**, [subject of a request for the supply of tax information from a foreign tax
4 authority] pursuant to [an] **A TREATY**, international convention or agreement on tax
5 matters to which the Philippines is a signatory or a party of, **DULY RATIFIED AND**
6 **CONCURRED IN BY THE SENATE OF THE PHILIPPINES**: *Provided*, That the
7 information obtained from the banks and other financial institutions may be used by the
8 Bureau of Internal Revenue for tax assessment, verification, audit, and enforcement
9 purposes. **THE EXCHANGE OF INFORMATION WITH A FOREIGN TAX**
10 **AUTHORITY, WHETHER ON REQUEST OR AUTOMATIC, SHALL BE DONE IN**
11 **ACCORDANCE WITH INTERNATIONAL COMMON REPORTING STANDARDS AND**
12 **IN A SECURE MANNER TO ENSURE CONFIDENTIALITY THEREOF UNDER SUCH**
13 **RULES AND REGULATIONS AS MAY BE PROMULGATED BY THE SECRETARY**
14 **OF FINANCE, UPON RECOMMENDATION OF THE COMMISSIONER.**
15 **ANY INFORMATION RECEIVED UNDER THIS SECTION SHALL BE TREATED AS**
16 **CONFIDENTIAL IN NATURE AND SHALL BE DISCLOSED ONLY TO PERSONS OR**
17 **AUTHORITIES CONCERNED WITH THE ASSESSMENT OR COLLECTION OF, THE**
18 **ENFORCEMENT OR PROSECUTION IN RELATION TO, THE TAXES SUBJECT OF**
19 **THE TREATY OR AGREEMENT: PROVIDED, THAT SUCH PERSONS OR**
20 **AUTHORITIES SHALL USE THE INFORMATION ONLY FOR SUCH PURPOSES.**
21 **FOR AUTOMATIC EXCHANGE OF INFORMATION WITH A FOREIGN TAX**
22 **AUTHORITY, THE BIR SHALL ENSURE THAT THE NECESSARY**
23 **ADMINISTRATIVE AND INFORMATION TECHNOLOGY INFRASTRUCTURES AND**
24 **RESOURCES ARE IN PLACE TO FACILITATE THE EXCHANGE.**
25 [In case of a request from a foreign tax authority for tax information held by banks and
26 financial institutions, the Exchange of information shall be done in a secure manner to
27 ensure confidentiality thereof under such rules and regulations as may be promulgated
28 by the Secretary of Finance, upon recommendation of the Commissioner.]

1 IN CASE THE EXCHANGE OF INFORMATION IS UPON REQUEST OF A FOREIGN
2 TAX AUTHORITY PURSUANT TO A CONVENTION, AGREEMENT, OR TREATY
3 DULY RATIFIED AND CONCURRED IN BY THE SENATE OF THE PHILIPPINES,
4 t[T]he Commissioner shall provide the tax information obtained from banks and
5 financial institutions [pursuant to a convention or agreement upon request of the foreign
6 tax authority] **ONLY** when such requesting foreign tax authority has provided the
7 following information to demonstrate the foreseeable relevance of the information to the
8 request:

- 9 a) The identity of the person under examination or investigation;
- 10 b) A statement of the information being sought including its nature and the
11 **PRESCRIBED** form in which the [said foreign tax authority] **COMMISSIONER**
12 prefers to receive the information from the [Commissioner] **BANKS AND**
13 **FINANCIAL INSTITUTIONS;**
- 14 c) The tax purpose for which the information is being sought;
- 15 d) Grounds for believing that the information requested [is held in the Philippines or is
16 in the possession or control of a person within the jurisdiction of the Philippines] **IS**
17 **IN THE POSSESSION OF THE PARTICULAR BANK OR FINANCIAL**
18 **INSTITUTION.**

19 xxx

20 The term "foreign tax authority", as used herein, shall refer to the tax authority or tax
21 administration of the requesting State under the tax treaty, **AGREEMENT**, or convention to
22 which the Philippines is a signatory or a party of.

23 **(4) ANY TAXPAYER, UPON ORDER OF ANY COURT OF COMPETENT**
24 **JURISDICTION, IN CASES OF OFFENSES INVOLVING ATTEMPT TO EVADE OR**
25 **DEFEAT THE TAX, WILLFUL NEGLIGENCE TO FILE A RETURN OR PAY THE TAX, OR**
26 **FILING OF A FRAUDULENT RETURN, AS PROVIDED UNDER SECTIONS 254 AND**
27 **255 OF THE NIRC, AS AMENDED: PROVIDED, THAT FOR PURPOSES OF THIS**
28 **SUBPARAGRAPH, THE TERM "WILLFUL" SHALL REFER TO A VOLUNTARY,**
29 **CONSCIOUS, INTENTIONAL AND DELIBERATE ACT OR OMISSION OF A KNOWN**

1 LEGAL DUTY: *PROVIDED, FURTHER*, THAT THE TERM "FRAUDULENT RETURN"
2 SHALL REFER TO A FALSE RETURN VOLUNTARILY, KNOWINGLY,
3 DECEITFULLY, AND INTENTIONALLY FILED WITH INTENT TO EVADE THE
4 PAYMENT OF THE CORRECT TAX: *PROVIDED, FINALLY*, THAT FIFTY PERCENT
5 (50%) UNDERPAYMENT OF THE TAX DUE SHALL CONSTITUTE *PRIMA FACIE*
6 EVIDENCE OF A FRAUDULENT RETURN.

7 xxx

8 TITLE VI

9 CONFIDENTIALITY AND NON-USE OF INFORMATION AND DATA.

10 **SEC. 24. *Confidentiality and Non-use of Information and Data.*** - Any information or data
11 contained in, derived from or provided by a taxpayer in the tax amnesty return, SALN and appurtenant
12 documents shall be confidential in nature and shall not be used in any investigation or prosecution before
13 any judicial, quasi-judicial and administrative bodies.

14 Any statement of assets, liabilities and networth, financial statements, information sheets, and any
15 such other statements or disclosures that may have been previously submitted by the taxpayer as required
16 by existing laws are deemed to have been amended by the tax amnesty return and/or the SALN filed under
17 this Act and may not be the subject of any investigation or prosecution or be used in any investigation or
18 prosecution before any judicial, quasi-judicial and administrative bodies.

19 TITLE VII

20 OFFENSES AND PENALTIES

21 **SEC. 25.** A new section designated as Section 266-A under Chapter X of the NIRC, as amended, is
22 hereby inserted to read as follows:

23 "SEC. 266-A. *OFFENSES RELATING TO EXCHANGES OF INFORMATION.* -
24 VIOLATIONS OF THE PROVISIONS OF SECTION 6(F) SHALL BE PUNISHABLE AS FOLLOWS:
25 (A) ANY OFFICER, OWNER, AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF
26 ANY REPORTING FINANCIAL INSTITUTION, WHO, BEING REQUIRED IN WRITING BY
27 THE COMMISSIONER, WILLFULLY, REFUSES TO SUPPLY THE REQUIRED
28 INFORMATION SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIFTY
29 THOUSAND PESOS (PHP50,000) BUT NOT MORE THAN ONE HUNDRED THOUSAND

1 PESOS (PHP100,000), OR SUFFER IMPRISONMENT OF NOT LESS THAN TWO (2)
2 YEARS BUT NOT MORE THAN FIVE (5) YEARS, OR BOTH;

3 (B) ANY OFFICER, OWNER, AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF
4 A REPORTING FINANCIAL INSTITUTION, WHO FAILS TO FILE AND/OR KEEP THE
5 RECORDS REQUIRED WITHIN THE PURVIEW OF THIS ACT, SHALL BE SUBJECT TO A
6 FINE OF NOT LESS THAN ONE HUNDRED THOUSAND PESOS (PHP100,000), BUT NOT
7 LESS THAN FIVE HUNDRED THOUSAND PESOS (PHP500,000), OR SUFFER
8 IMPRISONMENT OF NOT LESS THAN SIX (6) MONTHS BUT NOT MORE THAN ONE (1)
9 YEAR, OR BOTH;

10 (C) ANY OFFICER, OWNER, AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF
11 A REPORTING FINANCIAL INSTITUTION WHO SHALL BE NON-COMPLIANT WITH ANY
12 OF THE DUE DILIGENCE OBLIGATIONS SHALL BE SUBJECT TO A FINE OF NOT LESS
13 THAN FIFTY THOUSAND PESOS (PHP50,000), BUT NOT MORE THAN ONE HUNDRED
14 THOUSAND PESOS (PHP100,000), OR SUFFER IMPRISONMENT OF NOT LESS THAN
15 TWO (2) YEARS BUT NOT MORE THAN FIVE (5) YEARS, OR BOTH; AND

16 (D) ANY OFFICER, OWNER, AGENT, MANAGER, DIRECTOR OR OFFICER-IN-CHARGE OF
17 A REPORTING FINANCIAL INSTITUTION WHO SHALL BE FOUND TO HAVE
18 COMMITTED ANY BREACH OF CONFIDENTIALITY WITHIN THE PURVIEW OF THIS
19 ACT, SHALL BE SUBJECT TO A FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND
20 PESOS (PHP500,000) BUT NOT MORE THAN ONE MILLION PESOS (PHP1,000,000), OR
21 SUFFER IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS, BUT NOT MORE THAN
22 FIVE (5) YEARS, OR BOTH.

23 **SEC. 26.** Section 270 of the NIRC, as amended, is hereby further amended to read as follows:

24 **SEC. 270. *Unlawful Divulgence of Information.*** – Except as provided in Sections 6(F) and
25 71 of this Code and Section 26 of Republic Act No. 6388, any officer or employee of the Bureau of
26 Internal Revenue who divulges to any person or makes known in any other manner than may be
27 provided by law information regarding the business, income, or estate of any taxpayer, the secrets,
28 operation, style or work, or apparatus of any manufacturer or producer, or confidential information
29 regarding the business of any taxpayer, knowledge of which was acquired by him in the discharge of

1 his official duties, shall, upon conviction for each act or omission, be punished by a fine of not less
2 than Fifty thousand pesos (PHP50,000) but not more than One hundred thousand pesos
3 (PHP100,000), or suffer imprisonment of not less than two (2) years but not more than five (5) years,
4 or both.

5 Any officer or employee of the Bureau of Internal Revenue who divulges or makes known in
6 any other manner to any person other than the [requesting foreign] tax authority **OF A TREATY**
7 **PARTNER** information obtained from banks and financial institutions pursuant to Section 6(F),
8 knowledge or information acquired by him in the discharge of his official duties, shall, upon
9 conviction, be punished by a fine of not less than **FIVE HUNDRED [Fifty]** thousand pesos
10 **(PHP500,000 [P50,000])** but not more than One **MILLION [hundred thousand] pesos**
11 **(PHP1,000,000) [P100,000])**, or suffer imprisonment of not less than two (2) years but not more than
12 five (5) years, or both."

13 **SEC. 27. Unlawful Divulgence of Tax Amnesty Return and Appurtenant Documents.** – It shall
14 be unlawful for any person having knowledge of the Tax Amnesty Return and appurtenant documents, to
15 disclose any information relative thereto, and any violation hereof shall be penalized a fine of not less than
16 Fifty thousand pesos (Php50,000) but not more than One hundred thousand pesos (Php100,000) and
17 imprisonment of not less than two (2) years but not more than five (5) years: *Provided*, That if the offender
18 is an officer or employee of the BIR or any government entity, the penalties under Section 270 of the NIRC,
19 as amended, shall apply. *Provided, further*, That the offender shall likewise suffer an additional penalty or
20 perpetual disqualification to hold public office.

21 **SEC. 28. Penalties.** The following sanctions and penalties shall apply in case of violations
22 enumerated below:

- 23 a. Any person who, having filed a SALN or Tax Amnesty Return under Title III of this Act, willfully
24 understates his total networth to the extent of thirty percent (30%) or more shall, upon conviction,
25 be subject to the penalties of perjury under the Revised Penal Code.
- 26 b. The failure to declare any property constituting thirty percent (30%) or more of the declared
27 amount in the SALN and/or in the Tax Amnesty Return shall be deemed a *prima facie* evidence of
28 fraud and shall constitute a ground upon which attachment of such property may be issued in

1 favor of the BIR to answer for the satisfaction of any judgment that may be acquired against the
2 declarant.

3 In addition to the penalties provided in paragraphs (a) and (b) above, immediate tax fraud
4 investigation shall be conducted to collect all taxes due, including increments, and to criminally
5 prosecute those found to have willfully evaded lawful taxes due.

6 In the case of associations, partnerships, or corporations, the penalty shall be imposed on the
7 partner, president, general manager, treasurer, officer-in-charge and employees responsible for
8 the violation.

9 TITLE VIII

10 INFORMATION MANAGEMENT SYSTEM AND DISPOSITION OF PROCEEDS

11 **SEC. 29. *Information Management System.*** – For purposes of enhancing revenue
12 administration, revenue collection and policy formulation, the Department of Finance, in coordination with
13 the BIR, Land Registration Authority, Department of Trade and Industry, Securities and Exchange
14 Commission, Land Transportation Office, and other agencies concerned shall institute an Information
15 Management Program for the effective use of information declared or obtained from the Tax Amnesty
16 Returns and SALNs required to be filed under this Act.

17 If the data requirements consist of information found in the income tax return of taxpayers, the
18 requirements under Section 71 of the NIRC, as amended, shall still be complied with. The Information
19 Management System shall also comply with the provisions of Republic Act No. 10173, otherwise known as
20 the "Data Privacy Act" and such other laws relating to confidentiality of information.

21 **SEC. 30. *Disposition of Proceeds.*** - All proceeds from this Act shall be allocated to augment the
22 appropriations needed for the social mitigating measures and the BUILD BUILD BUILD infrastructure
23 projects as provided under Section 82 of RA No. 10963 or the Tax Reform for Acceleration and Inclusion
24 (TRAIN) Act.

25 TITLE IX

26 CONGRESSIONAL OVERSIGHT COMMITTEE AND FINAL PROVISIONS

27 **SEC. 31. *Report to Oversight Committee.*** – The Commissioner shall submit to the Oversight
28 Committee referred to in Section 290 of the NIRC as amended through the Chairpersons of the Committee
29 on Ways and Means of the Senate of the Philippines and House of Representatives, a detailed report on

1 the implementation of this Act within six (6) months after the one (1) year period of availment of the General
2 Tax Amnesty and TAD and the two-(2) year availment of the Estate Tax Amnesty under this Act.

3 **SEC. 32. *Implementing Rules and Regulations.*** – The Secretary of Finance shall, in coordination
4 with the Commissioner of Internal Revenue, promulgate and publish the necessary rules and regulations
5 within ninety (90) days from the effectivity of this Act.

6 **SEC. 33. *Repealing Clause.*** – All other laws, acts, presidential decrees, rules and regulations or
7 parts thereof inconsistent with the provisions of this Act are hereby expressly repealed, amended or
8 modified accordingly.

9 **SEC. 34. *Separability Clause.*** - If any provision of this Act is subsequently declared invalid or
10 unconstitutional, the remaining provisions or parts which are not affected thereby shall remain in full force
11 and effect.

12 **SEC. 35. *Effectivity.*** - This Act shall be effective upon its publication in the *Official Gazette* or in any
13 two (2) newspapers of general circulation, whichever comes earlier.

Approved,