

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

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S E N A T E

S. No. 1752

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Introduced by Senator S. R. Osmeña III

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#### EXPLANATORY NOTE

Taxes are the lifeblood of the government. Even if the principle is well established, in the Philippines, the practice of paying taxes and paying the right *amount is not*. Rampant tax evasion lies behind the government's nagging budget deficit, which last year totaled P199.9 billion, equivalent to 4.6% of the country's gross domestic product (GDP). The budget deficit of the government has been increasing from 1.9% of GDP in 1998 to a high of 5.2% in 2002. The projected full year deficit for 2004 is estimated to be roughly P197.8 billion, or 4.2% of GDP. Public debt has also ballooned to more than \$60 billion, and economists say it is dragging down the Philippine economy.

From 1998 to 2002, the National Tax Research Center (NTRC) estimated the tax leakage to have reached P634.7 billion. This significant amount of money that had escaped the state's coffers jeopardizes the government's responsibility to deliver basic goods and services to the people. Tax revenue in the Philippines currently amounts to only 12.5% of GDP, ranking it much behind our Asian neighbors.

The Philippines is cited, with increasing frequency, as a country where corruption is a factor that inhibits foreign and domestic investment and which may be eroding the country's competitive position. Perhaps nowhere else is corruption so deeply entrenched as at the country's tax authority, the Bureau of Internal Revenue (BIR).


The country's burgeoning fiscal crisis emphasizes the need to restructure the BIR because it has continuously failed to meet its targets despite being responsible for almost 80 per cent of the revenues of government.

The uncompetitive compensation and benefits for the bureaucracy has failed to attract the most qualified personnel to the BIR. Budget constraints also prevent the BIR from employing the best personnel and using the latest technology in attaining its functions.

The proposed bill seeks to restructure the graft-ridden Bureau of Internal Revenue into the National Revenue Authority (NRA), which will be governed by a board of directors and managed by a chief executive officer (CEO) to be appointed by the board. The salient provisions of the bill are:

- The NRA is envisioned to be a performance-based organization, endowed with corporate powers that allow it sufficient flexibility in managing its operations. Management will thus be allowed to either reward or punish employees based on their performance.
- It will be de-politicized or insulated from politics, with automatic budget appropriation.
- It will be governed by a board composed of ex-officio members from the Department of Finance, Department of Budget and Management, Securities and Exchange Commission and National Economic and Development Authority, and three representatives from the private sector.
- It will be run by a board-selected CEO covered by a performance-based contract.
- It will be governed by a board that has power to create the appropriate organizational structure needed by the new revenue agency to fulfill its mandate. The NRA board of directors is authorized to create a streamlined organization within six months and will also be tasked to decide on the separation package to be offered to employees who shall retire or are separated from the service.
- It strengthens transparency by mandating that records and documents of the Revenue Board will be made available to the public without, of course, violating the confidentiality requirements of the National Internal Revenue Code.

In view of the urgent need to address the perennial problems of tax administration and, consequently, the budgetary problems of the government, the approval of this bill is earnestly requested.

  
**SERGIO OSMEÑA III**  
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC )  
OF THE PHILIPPINES )  
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**S E N A T E**

S. No. 1752

**Introduced by Senator S. R. Osmeña III**

**AN ACT  
CREATING THE NATIONAL REVENUE AUTHORITY, PROVIDING FUNDS  
THEREFOR, AND FOR OTHER PURPOSES**

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

**PART I**

**Preliminary Provisions**

SECTION 1. *Short Title.* – This Act shall be known and cited as the  
“National Revenue Authority Act of 2004.”

SEC. 2. *Declaration of Policy* – It is the policy of the State to reform and  
restructure its tax administration system to meet its objectives of providing  
Government the necessary resources to competently govern and operate. It shall  
also satisfy its co-equal mandate and responsibility to provide its customers the  
taxpayers, efficient, effective and responsive service.

To this end, the State shall provide such framework through the creation  
of an ‘Internal Revenue Authority’ that shall be imbued under the principles of  
honesty and integrity, fairness and equity. The State shall therefore endow the  
Authority with the appropriate autonomous fiscal and administrative powers  
necessary to the discharge of and the attainment of its mandate.

SEC. 3. *Scope* – This Act shall provide the framework for the restructuring  
of the BIR, its transition to the desired corporate body structure, under an  
autonomous decentralized system of administration.

1           SEC. 4. *Definition of Terms.* – As used in this Act, the following terms shall  
2 mean as follows:

3           a) *BIR* – refers to the Bureau of Internal Revenue which is government  
4           agency created under Title II, Sec. 16 of the Administrative Code of  
5           2987 as amended by the Republic Act No. 8424.

6           b) *Board* – refers to the Revenue Board which is the governing body of  
7           the Authority composed of representatives from the government and  
8           non-government sector, as established in Section 9 of this Act.

9           c) *CEO* – refers to the Chief-Executive-Officer, who shall be the head of  
10          the Authority as provided in Section 13 of this Act.

11          d) *COA* – otherwise known as Commission on Audit refers to the  
12          government agency created under Art. IX, C, Sec.    of the 1987  
13          Philippine Constitution.

14          e) *CSC* – otherwise known as *Civil Service Commission* refers to the  
15          government agency created under Art. IX, B, Sec. 1 of the 1987  
16          Philippine Constitution.

17          f) *DBM* – otherwise known as the Department of Budget and  
18          Management refers to the government entity responsible for the  
19          formulation and implementation of National Budget created under Sec.  
20          1, Title XVII of the Administrative Code of 1987.

21          g) *DOF* – otherwise known as the Department of Finance refers to a  
22          government agency primarily responsible for the sound and efficient  
23          management of financial resources of the Government, its  
24          subdivisions, agencies and instrumentalities.

25          h) *Government* – refers to the Government of the Republic of the  
26          Philippines as a corporate governmental authority through which the  
27          *functions of governance are exercised through out the Philippines*  
28          including the various arms and through which political authority is  
29          made effective.

- 1 i) *National Revenue Authority* – refers to the body corporate, endowed  
2 with fiscal and administrative powers, hereinafter referred to as the  
3 “Authority”.
- 4 j) *NEDA* – otherwise known as the National Economic and Development  
5 Authority refers to the government agency mandated to perform  
6 functions relative to development planning and policy formulation. It  
7 was re-organized by virtue of the passage of Executive Order No. 230  
8 last July 22, 1987.
- 9 k) *NIRC of 1997, as amended* – refers to the National Internal Revenue  
10 Code, as amended by RA 8424 otherwise known as “The Tax Reform  
11 Act of 1997”.
- 12 l) *SEC* – refers to the collegial body created under Sec. 4.1 of Republic  
13 Act No. 8799 otherwise referred to as the Securities and Exchange  
14 Commission.
- 15 m) *Taxpayer* – refers to any person subject to tax imposed by the National  
16 Internal Revenue Code as amended by RA 8424 and other special  
17 laws.

## 18 **PART II**

### 19 **Establishment of the National Revenue Authority**

20 *SEC. 5. Creation of the National Revenue Authority.* – There is hereby  
21 established a body corporate to be known as the National Revenue Authority,  
22 which shall be attached to the Department of Finance (DOF). The Authority shall  
23 have its principal place of business in Metro Manila and may establish branches  
24 and offices. In such other places as may be deemed necessary for the  
25 performance of its mandate. It shall be organized within 180 days from the date  
26 of effectivity of this Act.

27 *SEC. 6. Capitalization.* – The Authority shall be a non-stock corporation.  
28 Its capitalization shall be equal to the fixed assets and facilities, including other  
29 assets and properties, real and personal, transferred from the Bureau of Internal

1 Revenue and valued as of the effectivity of this Act. Additional asset build-up  
2 may be financed from the National Revenue Authority's Service Fee.

3 SEC. 7. *Powers of the Authority.* – The Authority shall exercise the powers  
4 and duties heretofore exercised by the BIR under the NIRC of 1997, as amended  
5 and other pertinent laws, such as assessment and collection of all national  
6 internal revenue taxes, fees and charges and the enforcement of all forfeitures,  
7 penalties, and fines connected therewith, including the execution of judgements  
8 in all cases decided in its favor by the Court of Tax Appeals and the ordinary  
9 courts. Further, the Authority shall give effect to and administer the supervisory  
10 and police powers conferred to the BIR by the NIRC of 1997, as amended and by  
11 other pertinent laws.

12 In addition, the Authority shall have the following corporate powers:

- 13 a) To adopt, alter, and use an official seal which shall be judicially  
14 notices;
- 15 b) To acquire, hold and lease or own, real and personal property and sell,  
16 encumber or otherwise dispose of the same;
- 17 c) To incur loans, obligations and other liabilities to be used solely for the  
18 improvement of the Authority's capital systems and infrastructure  
19 needs; Provided that the amounts to be used for the repayment of  
20 such loans and other obligations incurred under this provision,  
21 including the interest payments thereto shall be taken only from a  
22 portion of the service fee as specified in Section 28 of this Act, subject  
23 to such debt ceiling as determined by the Board: Provided further, that  
24 at no such time shall the total debt service impair the capital structure  
25 of the Authority and its budget for both capital outlay and maintenance  
26 and other operating expenses;
- 27 d) To enter into contracts;
- 28 e) To sue and be sued; and

1 f) To perform any and all acts necessary or incidental to achieve the  
2 objectives and purposes of this Act.

3 SEC. 8. *Functions of the Authority.* – The Authority shall perform the  
4 following functions –

5 a) To competently collect revenues for the Government consistent  
6 with its fiscal policy and revenue collection targets;

7 b) To provide effective, efficient, and responsive service to its  
8 customers-the taxpayers;

9 c) To formulate, advise, and make policy recommendations to the  
10 various Branches of Government on issues concerning taxation;

11 d) To represent, and liaise for the Government internationally in  
12 matters relating to taxation;

13 e) To increase awareness and understanding of tax obligations  
14 through information dissemination campaigns in order to enhance tax  
15 compliance; and

16 f) To perform other functions, as may be deemed necessary by the  
17 Board, in consultation with the CEO, in pursuit of its mandate as specified in this  
18 Act, and the Implementing Rules and Regulations (IRR) as approved, the NIRC  
19 of 1997, as amended and other applicable laws, rules and regulations.

20 SEC. 9. *Establishment of the Revenue Board* – There is hereby created  
21 an Internal Revenue Board, hereinafter referred to as the “Board”, to be  
22 composed of the Secretary of the Department of Finance (DOF), as *Chairperson*,  
23 and the following as *Members*: the Secretary of the Department of Budget and  
24 Management (DBM), Director-General of the National Economic and  
25 Development Authority (NEDA) and the Chairperson of the Securities and  
26 Exchange Commission (SEC), and three (3) representatives from the non-  
27 government sector to be appointed by the President. The three (3) members  
28 from the non-government sector shall be an economist, lawyer and accountant.  
29 Each shall be selected and appointed by the President from a pool of candidates

1 to be nominated by the Professional Organization of their professions. The  
2 standards and procedures of the nomination process shall be provided for in the  
3 IRR of this Act.

4 a) *Term of Office* – The representatives from the government sector shall  
5 serve in *ex-officio* capacity without compensation, while the members  
6 appointed from the non-government sector shall serve full-time for a  
7 term of three years respectively and may be re-appointed once. There  
8 shall be a staggered term for the first set of non-government sector  
9 appointees, such that the first appointee shall serve for three (3) years,  
10 the second appointee for two (2) years, and the third appointee for one  
11 (1) year: *Provided* however, that the reappointment of representatives  
12 from the non-government sector shall follow the nomination process  
13 outlined in this Section and the IRR of this Act.

14 An appointment to fill the vacancy created by the death, resignation  
15 or removal of a member from the non-government sector shall only be  
16 for the un-expired period of such member's term.

17 b) *Qualifications for Appointees from Non-Government Sector* – Any  
18 person may be appointed as member of the Board representing the  
19 non-government sector provided that he shall be a citizen of the  
20 Philippines, of good moral character, or unquestionable integrity, and a  
21 recognized expert in the field of taxation, fiscal policy, public finance,  
22 fiscal administration, accounting, management, or law: *Provided*  
23 however, that no person who has been connected as a director,  
24 partner, officer, lawyer, accountant, consultant or in any other capacity  
25 with individuals, general professional partnerships, or professional  
26 corporations who prepare and file tax returns, statements, protests and  
27 other papers with, or who appear before the Authority shall be  
28 appointed within one (1) year from the cessation of such connection.



1 c) *Conflict of Interest* – In addition to the requirements of Republic Act  
2 No. 6713, otherwise known as the Code of Conduct and Ethical  
3 Standards for Public Officials and Employees, any member of the  
4 Board with personal or pecuniary interest in any matter in the agenda  
5 of the Board shall disclose such interest to the Board and shall inhibit  
6 himself during the deliberations when such matter is taken up. The  
7 decision taken on the matter shall be made public and the minutes of  
8 the meeting shall reflect the disclosure made and the inhibition of the  
9 member concerned.

10 d) *Disqualification for Board Members* – In addition to the disqualifications  
11 imposed by the Code of Conduct and Ethical Standards for Public  
12 Officials and Employees, a member of the Board shall be disqualified  
13 from being connected as director, partner, officer, lawyer, accountant,  
14 consultant or in any other capacity with individuals, general  
15 professional partnerships, or professional corporations who prepare  
16 and file tax returns, statements, protests and other papers with, or who  
17 appear before the Authority, in which case such member shall  
18 terminate his or her association with such individuals and resign from,  
19 and divest himself or herself of any and all interests in such general  
20 professional partnerships, or professional corporations.

21 e) *Grounds for Removal of Appointees from Non-Government Sector* –  
22 The President may remove any member of the Board from the non-  
23 government sector for any of the following reasons:

24 (i) The member suffers from physical or mental incapacity that  
25 renders him or her incapable of properly discharging the  
26 duties and responsibilities of membership in the Board and  
27 such incapacity has lasted for more than six (6) months; or

- 1           (ii) The member has committed acts or operations that are  
2 shown *prima facie* to be fraudulent or illegal or manifestly  
3 opposed to the aims and interests of the Authority;
- 4           (iii) The member no longer possesses the qualifications  
5 specified in Section 9 (b) of this Act; or
- 6           (iv) The member is subsequently disqualified under the  
7 provisions of existing laws.

8           SEC. 10. *Powers and Duties of the Revenue Board* – The Board shall  
9 exercise the following powers:

- 10          a) To formulate, formally approve and adopt, the fiscal and administrative  
11 policy framework for the effective implementation by the Authority, of  
12 the provisions of this Act, the NIRC of 1997, as amended and other  
13 revenue regulations as well as to evaluate and monitor the adoption  
14 and implementation of the same;
- 15          b) Upon the recommendation of the CEO, approve the annual and  
16 supplemental budget of receipt and expenditures of the Authority, and  
17 authorize such capital and operating expenditures of the Authority as  
18 may be necessary or proper for the effective management, operation  
19 and administration of the Authority;
- 20          c) Upon the recommendation of the CEO, form committees that shall  
21 assist in the performance of its functions. Such committees shall  
22 include, but are not limited to the following: an executive committee  
23 and an inter-agency tax coordinating body that shall be convened to  
24 identify and provide data for the forecasting of potential revenue  
25 collections of the Authority;
- 26          d) Direct the management, operations and administration of the Authority  
27 and issue such rules and regulations, as it may deem necessary or  
28 convenient for this purpose;

- 1 e) Reorganize the Authority, which shall include, but which shall not be  
2 limited to, outsourcing of services and implementation of a  
3 *Voluntary/Mandatory Retirement Program* as it may deem necessary  
4 to fulfill its mandate;
- 5 f) Establish a Human Resource Management System geared towards  
6 the improvement of capabilities of the organization. Appointment to the  
7 Authority shall be based on merit and fitness to be determined as far  
8 as practicable by competitive examinations or based on highly  
9 technical qualifications and applicants may likewise be subject to  
10 lifestyle and integrity checks to ensure suitability of appointment to a  
11 new position;
- 12 g) The Board shall have the exclusive and final authority to hire, promote,  
13 transfer, assign, reassign or remove personnel of the Authority who are  
14 found unfit to render further service to the Authority and these  
15 *personnel actions* are deemed made in the interest of achieving the  
16 right size of the organization and not disciplinary in nature;
- 17 h) Impose disciplinary measures pursuant to existing Civil Service laws;
- 18 i) Fix the remunerations and other emoluments of the personnel of the  
19 Authority based on the recommendations of the CEO and subject to  
20 *pertinent compensation laws*;
- 21 j) Upon the recommendation of the CEO, appoint the top management  
22 officials, middle-management officials, employees and other personnel  
23 *of the Authority as maybe further specified in the IRR*;
- 24 k) Exercise such powers and perform such other acts as may be  
25 necessary, useful, incidental or auxiliary to carry out the provisions of  
26 *this Act, or to perform the purposes and objectives of this Act, the*  
27 *NIRC of 1997, as amended and other pertinent agreements, revenue*  
28 *rules and regulations.*

1 All rules and regulations approved by the Secretary of Finance, as  
2 recommended by the BIR Commissioner, and all such other references  
3 in the NIRC of 1997 as amended, where appropriate, shall henceforth  
4 refer to the Board.

5 SEC. 11. *Organization of the NRA* – The Revenue Board shall organize  
6 the by adopting as necessary a staffing pattern or organizational structure,  
7 subject to the approval of the President of the Philippines upon the  
8 recommendation of the Department of Budget and Management to efficiently  
9 fulfill its mandate under this act.

10 The formulation of the Program of Organization shall be completed within  
11 a period of six (6) months from the effectivity of this Act. During this period, the  
12 Board shall have the option to provide a Voluntary/Mandatory Retirement  
13 Package, subject to the approval of the President of the Philippines upon the  
14 recommendation of the Department of Budget and Management.

15 SEC. 12. *Meetings* – The Board shall hold meetings at least twice a month  
16 for the conduct of its business or as often as maybe necessary upon the call of  
17 four (4) of its members. Any regular meeting shall be called by the Chairperson  
18 or in his absence, by any of the representatives of the Government to the Board.

19 The presence of four (4) members shall constitute a quorum. *Provided,*  
20 that meetings shall only be held if there is a quorum and that at least one non-  
21 government sector representative is present.

22 All decisions of the Board shall require the concurrence of majority of its  
23 members. *Provided,* that for matters such as, the approval of the Authority's  
24 Fiscal and Administrative policy framework and/or any major amendments  
25 thereto, removal and appointment of the CEO, approval of and subsequent  
26 changes to the organizational structure and staffing pattern and compensation  
27 scheme, contracting of loans, obligations and liabilities, a vote of two thirds (2/3)  
28 of all the members of the Board shall be required.

1 Any Authority shall maintain and preserve a complete record of the  
2 proceedings/minutes of the Board which can be made available to the public  
3 when national interests so requires as may be determined by the Board.

4 Whenever the Chairperson or any of the Members serving in *ex officio*  
5 capacity is unable to attend a meeting of the Board, the representative shall be  
6 an Undersecretary or its equivalent rank *Provided*, that the highest ranking *ex*  
7 *officio* member present shall preside over the meeting in case the Chairperson is  
8 absent.

9 SEC. 13. *The Chief-Executive-Officer* - The Authority shall be headed by  
10 a CEO who shall be a citizen of the Philippines, of good moral character, of  
11 unquestionable integrity, with a least seven (7) years experience in management,  
12 and a recognized expert in the field of taxation, finance, fiscal administration,  
13 economics, public administration or public finance.

14 The CEO of the Authority shall be appointed by the Board from a list of at  
15 least three (3) nominees prepared by a Selection Committee created by the  
16 Board and chaired by any of its members.

17 The CEO shall be appointed for a term of four (4) years, which must be  
18 covered by a Performance Contract between the Authority and the CEO. Said  
19 contract may be pre-terminated by the Board for reasons such as failure to meet  
20 the revenue collection target and other pertinent commitments in the  
21 performance contract unless such failure is attributable to a cause or causes  
22 beyond the control of the CEO. The CEO may also be removed from office due  
23 to serious, misconducts, gross and habitual neglect of duties, fraud or willful  
24 breach of trust, commission of a crime or offense and other causes analogous to  
25 the foregoing, as provided under the Administration Code of 1987, the Revised  
26 Penal Code and other special laws, rules and regulations.

27 SEC. 14. *Powers and Duties of the CEO* – The CEO shall exercise the  
28 powers and functions of the Commissioner of the BIR under Sections 4, 5, 6, 7,

1 8, 14, 15, 16, 17, 19, 20, and other provisions of the NIRC of 1997, as amended.

2 In addition to such powers, the CEO shall:

3 a) Direct, execute and administer the Fiscal and Administrative policies  
4 as approved, and such directives and agreements approved by the  
5 Board, and submit for consideration of the Board such other policies  
6 and measures as he or she believes necessary to carry out the  
7 purposes and objectives of this Act;

8 b) Promulgate, with the approval of the Board, all necessary rules and  
9 regulations for the effective enforcement of this Act, the provisions of  
10 the NIRC of 1997, as amended and other revenue laws, rules and  
11 regulations;

12 c) Determine, with the approval of the Board, the organizational structure,  
13 staffing pattern including the geographical location of the branches and  
14 offices of the Authority; reorganize its personnel and issue such rules  
15 and regulations, as he or she may deem necessary or convenient for  
16 these purposes;

17 d) Establish, with the approval of the Board, a Performance-Based  
18 Management System in accordance with existing laws, rules and  
19 regulations, which shall govern the selection, hiring, appointment,  
20 transfer, promotion, or dismissal of all officials and personnel of the  
21 Authority. A continuing program for resource and capacity building but  
22 not limited to education and training, shall likewise be made an integral  
23 component of this system;

24 e) Adopt with the approval of the Board, a Workforce Rationalization Plan  
25 including the provision of incentives and/or financial assistance to  
26 Authority personnel who retire or are separated from the service as a  
27 consequence of such Plan;

1 f) Recommend for Board approval prior to engagement, the proposed  
2 outsourcing agreements of non-core corporate functions and services  
3 and thereafter implement the same;

4 g) Represent the Authority in all external official acts with offices,  
5 agencies and instrumentalities of the Government and with all persons  
6 and entities, public or private, domestic or foreign: *Provided that*, and  
7 where appropriate, prior Board approval and authorization shall be  
8 obtained;

9 h) To exercise such other powers and functions as may be vested in the  
10 CEO by the Board.

11 The CEO shall have the authority to delegate any of the foregoing powers  
12 to such official or officials of the Authority, as he or she may deem necessary.  
13 Such delegation of any of the above powers and duties, in whole or in part, shall  
14 be documented: *Provided that*, such documents shall form part of the official  
15 records of the Authority: *Provided further*, that any delegation heretofore, shall  
16 require ratification in the Board meeting immediately following such delegation.  
17 Should any of the above powers and functions be made permanent in nature,  
18 Board approval and authorization shall be secured before such delegation is  
19 made operative.

20 All references in the NIRC of 1997, as amended and other revenue laws,  
21 and in the rules and regulations issued thereunder to the Commissioner of the  
22 BIR, shall be deemed to refer to the CEO. Henceforth, all powers and functions  
23 of the aforementioned Commissioner of the BIR are deemed transferred to the  
24 CEO, where appropriate.

25 SEC. 15. *Compensation* – Upon the recommendation of the Department  
26 of Budget and Management, the President of the Philippines shall fix the  
27 compensation of the Members of the Board from the Non-Government sector  
28 and the CEO taking into account the compensation structure of the Government  
29 and the importance and responsibilities attached to their positions.





1 Appointments in the Authority, except those which are policy-determining,  
2 primarily confidential or highly technical in nature, shall be made in accordance  
3 with the Civil Service Law, rules and regulations; *Provided*, That no qualification  
4 requirements for positions in the Authority shall be imposed, other than those set  
5 by the CEO upon approval of the Board and consistent with existing laws, deploy  
6 and utilize all officers, staff and employees under the organizational structure,  
7 staffing pattern and workforce rationalization plan as approved, without need of  
8 obtaining prior approval from any and all other Government Agencies, so as not  
9 to affect nor disrupt the operations of the Authority, and to assure the efficient  
10 and effective discharge of the Authority's mandate as herein set forth.

11 SEC. 19. *Extraordinary Diligence* – The officials and personnel of the  
12 Authority who willfully violate the NIRC of 1997, as amended or who are guilty of  
13 negligence, abuse or acts of malfeasance or fail to exercise extraordinary  
14 diligence in the performance of their duties shall, in addition to the penalties  
15 provided for in the NIRC of 1997, as amended, be held liable for any loss or  
16 injury suffered by the Authority or other institutions as a result of such violation,  
17 negligence, abuse, malfeasance, or failure to exercise extraordinary diligence.

18 SEC. 20. *Indemnification for Legal Defense Costs and Expenses* –  
19 Section 227 of the NIRC of 1997, as amended is hereby amended to read as  
20 follows:

21 “The National Revenue Authority shall indemnify members of the Revenue  
22 Board and other officials of the Authority, including personnel of the units  
23 performing assessment, audit and collection functions, against all costs and  
24 expenses reasonably incurred by such persons in connection with any civil or  
25 criminal action, suit or proceeding to which they may be or made a party by  
26 reason of their performance of their functions or duties, unless they are finally  
27 adjudged in such action or proceeding to be liable for gross negligence or  
28 misconduct.

1            “In the event of settlement or compromise, indemnification shall be  
2 provided only in connection with such matters covered by the settlement as to  
3 which the Authority is advised by external counsel that the persons to be  
4 indemnified did not commit any gross negligence or misconduct.

5            “The costs and expenses incurred in defending the aforementioned action,  
6 suit or proceeding may be paid by the Authority in advance of the final disposition  
7 of such action, suit or proceeding upon receipt of an undertaking by or on behalf  
8 of the member of the Board, official or employee to repay the amount advanced  
9 should it ultimately be determined by the Authority that said member of the  
10 Board, official or employee is not entitled to be indemnified as provided in this  
11 Section.”

12            The Board and the CEO shall provide for alternative means to cover legal  
13 defense, costs and expenses, including but not limited to litigation insurance. The  
14 details in implementing this Section shall be in accordance with the IRR of this  
15 Act.

16            SEC. 21. *Applicability of Prohibitions and Sanctions; Administrative*  
17 *Complaints –*

18            The penalties imposed on officials, agents or employees of the BIR who  
19 are guilty of the offenses enumerated in the NIRC of 1997, as amended and  
20 other criminal statutes shall be applied to members of the Revenue Board and  
21 officials, agents and employees of the Authority who are found guilty of such  
22 offenses.

23            For purposes of administrative complaints against officers and employees  
24 of the Authority, an internal audit unit to be created by and reporting directly to  
25 the Board shall conduct the investigations on such complaints. For this purpose,  
26 such internal audit unit shall be deemed deputized by the Office of the  
27 Ombudsman under RA 6770 or the Ombudsman Act of 1989.



1           The Revenue Commission is created pursuant to and for the purpose of  
2 ensuring that the mandate of the Authority shall be pursued and implemented in  
3 accordance with the spirit and intent of the Act. Its shall perform the following  
4 functions in aid of legislation, among others:

- 5           a) Set the guidelines and overall framework to monitor and ensure the  
6           proper implementation of the Act;
- 7           b) Ensure transparency and accountability responsibilities of the  
8           Authority, through a regular review of the semi-annual reports of the  
9           Authority, and through consultations with the Board and CEO of the  
10          Authority;
- 11          c) Review and evaluate the implementation of this Act, after the first year  
12          of actual operations of the Authority, and every six months thereafter,  
13          until the end of the term existence of the Revenue Commission;
- 14          d) Provide for the methodology and procedures in the turn-over of the  
15          functions herein stated, after its term of existence ends, to the  
16          Congressional Oversight Committee pursuant to Section 290 of the  
17          NIRC of 1997, as amended.
- 18          e) Perform such other duties and functions as may be necessary to attain  
19          its objectives.

20          The Revenue Commission shall adopt its internal rules of procedure;  
21 conduct hearings and receive testimonies, reports and technical advice; invite or  
22 summon by *subpoena ad testificandum* any public official, private citizen or any  
23 person to testify before it on information and date it may require, or require any  
24 person by *subpoena duces tecum* to produce before it such records, reports,  
25 documents or other materials as it may require; and generally require all the  
26 powers necessary to attain the purposes for which it is created. The Secretariat  
27 of the Revenue Commission shall be drawn from the existing secretariat  
28 personnel of the Standing Committees comprising the Joint Congressional  
29 Revenue Commission.

1           The Revenue Commission shall exist for a period of three (3) years from  
2 the effectivity of this Act: Provided that if deemed necessary, the life of the  
3 Commission may be extended for a period not exceeding two (2) years, by an  
4 Act of Congress.

5           SEC. 24. *Access to Information; Income Tax Return, List of Tax Payers*  
6 *and Filers Constitute Public Records* – After the assessment shall have been  
7 made, as provided in Title II, Chapter XI, Section 71 of the NIRC of 1997, as  
8 amended, the returns, together with any corrections thereof which may have  
9 been made by the CEO, including the lists of containing the names, addresses,  
10 type of business whether a corporation, partnership or sole proprietorship with  
11 information on the gross sale/receipts during the year, and the amount of income  
12 taxes paid, taxes paid by individual income tax payers and the estate of the  
13 taxpayers, shall all be filed with the Office of the CEO and shall constitute *public*  
14 *records*, which shall be made request, in the premises and during regular office  
15 hours of the Authority, in accordance with the IRR of this Act.

16           To strengthen transparency and the accountability responsibilities of the  
17 Authority, the annual and semi-annual reports, minutes of Board meetings and  
18 proceedings thereof, shall constitute *public records*.

19           SEC. 25. *Exception to the Unlawful Procurement and Divulgence of Trade*  
20 *Secrets Clause* – As provided in Sections 270 and 278 of the NIRC of 1997, as  
21 amended, any officer or employee of the Authority, including service providers  
22 and their personnel who are granted access to taxpayers records by virtue of the  
23 outsourcing, as well as any person who is not in any way connected to the  
24 Authority, who gains access and uses for personal benefit, or who causes or  
25 procures an officer or employee of the Authority to divulge, reveal, cause to  
26 publish or print in any manner not provided by law, or makes known to any  
27 person, in any other manner than may be provided by law the following:  
28 confidential information regarding the business of the taxpayer or confidential  
29 information about the secrets, operation, style or work, or apparatus of any

1 manufacturer or producer, knowledge of which are acquired by such person in  
2 the discharge of his official duties or by virtue of his access to such information:  
3 *except* as herein allowed in Section 24 of this Act, shall, upon conviction for  
4 each or omission, be punished by a fine of not less than Fifty thousand pesos  
5 (Php 50,000.00) but not more than One hundred pesos (PhP 100,000.00) or  
6 suffer imprisonment of not less than two (2) years, but not more than five years,  
7 or both. The details of implementation of this provision shall be specified in the  
8 IRR of this Act.

## 9 **PART V**

### 10 **Transitory Provisions**

11 **SEC. 26. *Transfer of Powers*** – All powers, duties and functions vested by  
12 law in the BIR shall be deemed transferred to the Authority. The powers, duties  
13 and functions of the NIRC of 1997, as amended and other revenue laws as  
14 vested in the Deputy Commissioners, Service Chiefs, Assistant Chiefs, Revenue  
15 Regional Directors, Assistant Revenue Regional Directors, Chiefs and Assistant  
16 Chiefs of Divisions, Revenue District Officers, the special deputies of the  
17 Commissioner, internal revenue officers and other employees of the BIR, shall be  
18 deemed transferred to the officers and employees of the Authority who are  
19 appointed to exercise the same powers, duties and functions as the  
20 abovementioned BIR officers and employees: *Provided*, however, that pursuant  
21 to the power of the CEO in Sections 14 and 18 of this Act to determine the  
22 organizational structure of the Authority and the powers of the Board to  
23 reorganize its personnel under Sections 10, 11, 14 and 26 of this Act, the  
24 positions, bodies, acts and functions mentioned in Sections 7, 9, 10, 11, 12, 13,  
25 14, 15, 16, 17, 18, 51(B), 58, 77(A), 81, 90(D), 95, 103(B), 114(B), 128(B),  
26 130(A)(3), 130(A)(4)(b), 163, 164, 166, 171, 172, 196, 200(C), 202, 204, 206,  
27 207(A), 207(B), 208, 209, 213, 214, 215, 227, 236(A), 236(B), 236(E), 236(F),  
28 236(G), 236(J), 241, 242, 243, 244 to 282 and 290 of the NIRC of 1997, as  
29 amended, may be changed, abolished, combined with or be substituted with

1 another position, body, or with other powers and functions granted by these  
2 provisions to said positions and bodies to be performed by such officials or  
3 employees as may be deemed appropriate by the CEO, upon concurrence of the  
4 Board: *Provided further*, That for purposes of applications for abatement, upon  
5 recommendation of the CEO, the Board shall be authorized to fix the terms and  
6 conditions, including the levels of approving authority and the creation of  
7 committees to process said applications. The details for the implementation of  
8 this provisions shall be specified in the IRR of this Act.

9 All references to the BIR in the NIRC of 1997, as amended and other  
10 revenue laws, and in the rules and regulations issued thereunder shall  
11 henceforth be deemed to refer to the National Revenue Authority.

12 *SEC. 27. Transfer of Assets.* – (a) Upon the effectivity of this Act, an  
13 *Appraisal Committee composed of the Chairperson and ex officio* members of  
14 the Board and the Chairpersons of the Committees on Ways and Means of the  
15 Senate and the House of Representatives shall determine the assets of the BIR  
16 which shall be transferred to the Authority. The Committee shall be assisted by  
17 the COA in the appraisal of the value of the assets to be transferred to the  
18 Authority. The Chairperson of COA shall assign a group of auditors to assist the  
19 *Appraisal Committee in its work.*

20 (b) The Appraisal Committee shall complete its work within ninety (90)  
21 days from the commencement of its work. It shall submit a comprehensive report  
22 of its findings and justifications to Congress and the President within fifteen (15)  
23 days from the completion of its work.

24 *SEC. 28. Service Fee* – All revenue collections shall be remitted to the  
25 National Treasury. However, the Authority shall receive an annual appropriation  
26 from the National Government which shall be automatically released in an  
27 amount as may be determined by the Development Budget Coordinating Council  
28 (DBCC) created under E.O. No. 232, s. of 1970, as amended, which shall not fall

1 below *one percent (1%)* nor exceed *two and a half percent (2.5%)* of actual cash  
2 collection of all national internal revenue taxes, fees, charges and interest  
3 collected by the Authority based on the second preceding calendar year, *net* of  
4 the Internal Revenue Allotment (IRA), tax refunds, tax expenditure subsidy,  
5 rewards and other collections earmarked by law for special purposes. *Provided,*  
6 that for a maximum period of *five (5) years of operation of the Authority, the*  
7 Service Fee shall be 2.5% of all national internal revenue taxes, fees, charges  
8 and interest collected by the Authority based on the second preceding calendar  
9 year, *net* of IRA, tax refunds, tax expenditure subsidy, rewards and other  
10 collections earmarked by law for special purposes. *Provided, finally,* that in no  
11 case shall the Service Fee for a particular year be lower than the preceding year.

12       SEC. 29. *Transition Committee.* – The Secretary of Finance shall create a  
13 Transition Committee to manage the organization of the Authority, including the  
14 initial selection and appointment of its officials. These officials shall be subject to  
15 confirmation once the Revenue Board has been constituted: *Provided further,*  
16 that the initial selection and appointment of the officials of the Authority by the  
17 Transition Committees shall be recommended and endorsed to the Revenue  
18 Commission for its ratification. The officials of the Authority shall thereafter meet  
19 with and submit reports to the Revenue Commission, as may be required. The  
20 Transition Committee shall be headed by an Undersecretary of the Department  
21 of Finance and include, among others, the incumbent Commissioner of the BIR.

22       Towards the same end, the hiring of Authority personnel, suspension of  
23 assessments, institution of voluntary assessment programs, conduct of a  
24 taxpayer census, and similar measures are hereby authorized during the  
25 transition period to augment revenue collection and ensure that the operations of  
26 the Authority are not unduly disrupted.



1           SEC. 30. *Transitory Provision.* – This Act shall be construed in favor of the  
2 establishment of the Authority, achievement of right size of personnel  
3 complement and attainment of the declaration of policy as stated herein.

4           SEC. 31. *Implementing Rules and Regulations.* – The Revenue Board  
5 shall promulgate the IRR shall not affect the implementation of the self-executory  
6 provisions of this Act.

7           SEC. 32. *Injunction and Restraining Order* – The implementation of the  
8 provisions of this Act shall not be restrained or enjoined except by an order  
9 issued by the Supreme Court of the Philippines.

10          SEC. 33. *Separability Clause* – If any provision or section of this Act is  
11 held invalid, the other provisions and sections not affected thereby remain in full  
12 force and effect.

13          SEC. 34. *Repealing Clause* – The provisions of Sections 18, 19, 20, 21,  
14 and 22 of Chapter 4, Title II, Book IV of Executive Order No. 292, otherwise  
15 known as the Administrative Code of 1987, are hereby repealed. The provisions  
16 of Title I of the NIRC of 1997, as amended insofar as they are inconsistent with  
17 the provisions of this Act, are hereby amended or repealed accordingly. The  
18 other provisions of the NIRC of 1997, as amended including Sections 51(B), 58,  
19 71, 77(A), 81, 90(D), 95, 103(B), 114(B), 128(B), 130(A)(3), 130(A)(4)(b), 163,  
20 164, 166, 171, 172, 196, 200(C), 202, 204, 206, 207(A), 207(B), 208, 209, 213,  
21 214, 215, 227, 236(B), 236(E), 236(F), 236(G), 236(J), 241, 242, 243, 244 to 282  
22 and 290 are hereby repealed, amended or modified accordingly.

23          All other laws, including charters of government-owned or controlled  
24 corporations, decrees, orders or regulations or parts thereof issued pursuant to  
25 the NIRC of 1997, as amended that are inconsistent with this Act are hereby  
26 repealed, amended or modified accordingly.

1            SEC. 35. *Effectivity Clause* – This Act shall take effect fifteen (15) days  
2 following its publication in the *Official Gazette* or in two (2) newspapers of  
3 general circulation.

          Approved,