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SENATE

S. No. 1077

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Introduced by Senator Manuel "Lito" M. Lapid

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**AN ACT  
TO DEFINE AND PROTECT THE RIGHTS OF TAXPAYERS**

**EXPLANATORY NOTE**

The legal doctrine states that "[t]he power to tax is the power to destroy. ... To carry it to the excess of destruction, would be an abuse, to presume which, would banish that confidence which is essential to all government."<sup>1</sup>

*Ang buwis po ay ang dugong bumubuhay sa ating gobyerno. Kung wala po ito ay hindi po makagagalaw ang ating mga pampublikong tanggapan at wala po tayong serbisyong maibibigay sa ating mga kababayan.*

*Subalit kahit po mahalaga ang buwis ay hindi po natin ito dapat ipatupad sa paraang naabuso ang karapatan ng ating mga kababayang nagbabayad ng buwis. Bilang kaakibat po ng ating gobyerno sa maayos na pamumuno, dapat po ay panatilihin natin ang pagkilala sa karapatan ng ating mga mamamayan. Sa ganito ay mapapanatili po natin ang tiwala ng ating mga kababayan sa ating gobyerno at tataas po ang kumpiyansa nilang sumunod sa batas at magbayad ng buwis.*

It is declared the policy of the State to provide a balance between the protection of the taxpayers against abuses and at the same time, consistent and strict compliance

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<sup>1</sup> *McCulloch v. Maryland*. 4 Wheat. 316 (1819)

with the National Internal Revenue Code (NIRC) of 1997, as amended, and the Customs Modernization and Tariff Act (CMTA), and all other rules and regulations.

Rights and remedies for the taxpayers are already provided in the NIRC, CMTA, and all other laws such as Republic Act No. 1125. However, the same seem to be inadequate especially given the reports of certain individuals who have allegedly been subjected to harassment by some officials and employees of the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), including but not limited to, the filing of undue and baseless complaints.

Thus, this bill seeks to further grant the taxpayers the following: a) taxpayers' basic rights; (b) taxpayers' rights in civil cases; and (c) taxpayers' rights in criminal cases, whether at the administrative level or at the judicial level. In order to achieve this, the National Taxpayers Advocate is to be created in order to promote tax compliance and assist taxpayers.

In view of the foregoing, early passage of this bill is earnestly requested.

  
**MANUEL "LITO" M. LAPID**  
Senator 

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S. No. 1077

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1 **AN ACT**  
2 **TO DEFINE AND PROTECT THE RIGHTS OF TAXPAYERS**

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

3 **Section 1. Title.** – This Act shall be known as “The Taxpayer Bill of Rights Act”.

4 **Section 2. Declaration of Policy.** – It is hereby declared the policy of the State  
5 to provide increased protection of taxpayers’ rights in complying with the National  
6 Internal Revenue Code of 1997, as amended, the Customs Modernization and Tariff  
7 Act, and all other rules and regulations, to the end that abuses committed against  
8 taxpayers are mitigated, if not completely avoided, and taxes are collected  
9 responsibly, with due regard for taxpayers’ rights.

10 **Section 3. Taxpayer’s Bill of Rights.** – In addition to the rights and remedies  
11 of the taxpayers as provided for in the National Internal Revenue Code (NIRC) of  
12 1997, as amended; Customs Modernization and Tariff Act (CMTA), as amended;  
13 Republic Act No. 1125, as amended, creating the Court of Tax Appeals (CTA); and all  
14 other laws, rules and regulations, issuances, and circulars in support thereof, the  
15 taxpayers are hereto granted the following: a) taxpayers’ basic rights; b) taxpayers’  
16 rights in civil cases; and c) taxpayers’ rights in criminal cases, whether at the  
17 administrative level or at the judicial level, concerning tax assessments, collection and  
18 refund, and prosecution for criminal cases.

1           **Section 4. Taxpayers' Basic Rights.** – The following are the taxpayers' basic

2 rights:

- 3           a) The right to be informed of any pending assessment, investigation for  
4           criminal tax cases, collection or any other cases filed against the taxpayer  
5           or that the taxpayer is a subject of any request for third-party information  
6           or any lifestyle check for purposes of tax compliance. The right to available  
7           information and prompt, accurate responses to questions and requests for  
8           tax assistance shall always be ensured. In this regard, all revenue officers  
9           and agents shall undergo regular training and evaluation on a variety of job  
10          standards including customer relations. This standard requires agents to  
11          ensure that they fully explain to taxpayers their rights under the law;
- 12          b) The right to obtain simple, nontechnical statements, which explain the  
13          reason for audit selection and the procedures, remedies, and rights available  
14          during audit, appeals and collection proceedings. These rights include, but  
15          are not limited to, the rights pursuant to this Taxpayers' Bill of Rights and  
16          the right to be provided with a narrative description which explains the basis  
17          of audit changes, proposed assessments, assessments and denials of  
18          refunds, identifies any amount of tax, interest, or penalty due, and states  
19          the consequences of the taxpayer's failure to comply with the notice;
- 20          c) The right to have a speedy and impartial disposition of cases, the right to  
21          due process and the observance of rules regarding assessments, refunds or  
22          any other proceedings including requests for advisory rulings, clearances,  
23          termination letters and lifting of seizure, garnishment and forfeiture orders,  
24          whether it be against the taxpayer or against the officials and staff of the  
25          Bureau of Internal Revenue (BIR), the Bureau of Customs (BOC), and other  
26          government agencies, including government-owned and -controlled  
27          corporations (GOCCs), government financial institutions (GFIs), and local  
28          government units (LGUs) tasked with the enforcement of revenue or  
29          banking and financial laws, whether of local or national application;



- 1 d) The right to privacy as guaranteed by the Constitution, and the right to have  
2 any case or proceeding, including those involving third-party information  
3 requests against or involving the taxpayer, to be devoid of publicity,  
4 whether through radio, television, newspaper or any alternative media,  
5 while said case or proceeding is pending;
- 6 e) The right to seek assistance from the National Taxpayer Advocate who shall  
7 be responsible for facilitating the resolution of taxpayer complaints and  
8 problems not resolved through the normal administrative channels within  
9 the BIR or BOC, including any taxpayer complaints regarding unsatisfactory  
10 treatment by BIR or BOC employees. The taxpayers' rights advocate may  
11 issue a stay order if a taxpayer has suffered or is about to suffer irreparable  
12 loss as a result of an unjust action by the said Bureaus;
- 13 f) The right to have the taxpayer's tax information kept confidential unless  
14 otherwise authorized by law;
- 15 g) The right to participate in free education activities that help the taxpayer  
16 successfully comply with the revenue laws of the State;
- 17 h) The right to fair and consistent application of the tax laws of the State by  
18 the BIR and BOC;
- 19 i) The right to have the BIR begin and complete its audits in a timely and  
20 expeditious manner after notification of intent to audit through a letter of  
21 authority. Such audit shall be conducted only once per year unless otherwise  
22 provided by law;
- 23 j) The right to request for installment payment of tax liabilities under any  
24 compromise settlement or any assessed tax liabilities pursuant to Taxpayer  
25 Assistance Order;
- 26 k) The right to recover attorney's fees and litigation costs for tax assessments  
27 made without substantial justification, and for claims for tax refunds which  
28 are not acted upon for an unreasonable length of time at the administrative

1 level, or denied at the administrative level but subsequently allowed by the  
2 CTA if it appears that such denial was unjustified. The award of attorney's  
3 fees and costs of litigation shall be included in the order upholding the  
4 taxpayer's claim;

5 l) The right to have interests and penalties abated in case of any unjustifiable  
6 error or delay caused by the tax authorities or their agents, including  
7 ministerial acts such as loss of records, personnel transfers, extended illness  
8 or leaves of absence, and personnel training; and

9 m) The right to have the assistance of counsel in criminal proceedings, should  
10 the taxpayer request for it.

11 **Section 5. Taxpayers' Rights in Civil Cases.** – The following are the taxpayers'  
12 rights in civil cases:

13 a) The right to have the opportunity to have the case against the taxpayer  
14 amicably settled, as the case may warrant: *Provided*, That in every stage of  
15 the proceeding, whether in the administrative or judicial level, the parties  
16 shall always be given the chance to exhaust all and every remedy available  
17 for the speedy settlement of the case: *Provided*, however, That nothing in  
18 this Act shall deprive the court of competent jurisdiction of its judicial  
19 prerogatives;

20 b) The right to be informed of impending collection action which requires sale  
21 or seizure of property or freezing of assets, except jeopardy assessments,  
22 and the right to have at least thirty (30) days within which to pay the liability  
23 or seek further review;

24 c) The right to have all other collection actions attempted before a jeopardy  
25 assessment suspended, unless delay will endanger collection and, after a  
26 jeopardy assessment, the right to have an immediate review of the jeopardy  
27 assessment. As used herein, jeopardy assessment is a tax assessment made  
28 by an authorized revenue officer (RO) without the benefit of a complete or  
29 partial audit, considering the RO's judgment that the assessment and

1 collection of a deficiency tax will be jeopardized by delay caused by the  
2 taxpayer's failure to: (1) comply with audit and investigation requirements  
3 to present his books of accounts and/or pertinent records; or (2)  
4 substantiate all or any of the deductions, exemptions or credits claimed in  
5 his return;

6 d) The right to seek review, through formal or informal proceedings, of any  
7 adverse decisions relating to determinations in the audit or collection  
8 processes and the right to seek a reasonable administrative stay  
9 enforcement action while the taxpayer pursues other administrative  
10 remedies available under the law;

11 e) The right to be informed of the procedures for conditional termination of  
12 tax obligations through installment payment agreements which recognize  
13 both the taxpayer's financial condition and the best interests of the State:  
14 *Provided*, That the taxpayer gives accurate and current information and  
15 meets all other tax obligations on schedule;

16 f) The right to be informed of the procedures for requesting cancellation,  
17 release, or modification of liens filed by the BIR and the BOC and for  
18 requesting that any lien which is filed in error be so noted on the lien  
19 cancellation filed by the BIR and the BOC, with public notice to any credit  
20 agency at the taxpayer's request;

21 g) The right of the taxpayer in a judicial or administrative action brought or  
22 maintained without the support of justiciable issues of fact or law, to recover  
23 all costs of the administrative or judicial action, including reasonable  
24 attorney's fees; and

25 h) The right to waiver of interest that accrues as the result of errors or delays  
26 caused by a BIR/BOC employee: *Provided*, That the provisions of Rule 63  
27 of the Rules of Civil Procedures (Declaratory Relief and Similar Remedies)  
28 shall likewise be applicable to the aggrieved taxpayer.

1           **Section 6. *Taxpayers' Rights in Criminal Tax Cases.*** – The following are the  
2 taxpayers' rights in criminal tax cases:

- 3           a. The right to be knowledgeable and intelligently informed of the charges as  
4 contained in any properly and timely prepared audit report, assessment  
5 notice, correspondence, document, letter and the like, as implemented by  
6 rules and regulations, as the case may be, coming from the BIR or BOC or  
7 any government agency tasked to enforce the revenue laws and banking  
8 and financial laws, in appropriate cases;
- 9           b. The right to be given ample and adequate opportunity, as the situation may  
10 warrant, to present evidence at the taxpayer's or anybody else's possession  
11 that would assist the taxpayer in the pursuit of the case;
- 12           c. The right to seek the assistance of competent and willing counsel of the  
13 taxpayer's own choice, to help and assist in the preparation or defense of  
14 the case;
- 15           d. The right to be served with all the necessary documents and papers  
16 appurtenant thereto, relative to the charges against the taxpayer, in a  
17 manner that would assist and expeditiously present the taxpayer's side  
18 pursuant to the charges against the taxpayer;
- 19           e. The right to present the taxpayer's own witnesses; and
- 20           f. The right to be represented or advised by counsel or other qualified  
21 representatives at any time in administrative interactions with the BIR and  
22 the BOC; the right to procedural safeguards with respect to recording of  
23 interviews during tax determination or collection processes conducted by  
24 the BIR and the BOC; the right to be treated in a professional manner by  
25 the BIR and the BOC personnel; and the right to have audits, inspections of  
26 records, and interviews conducted at a reasonable time and place except in  
27 criminal and internal investigations.



1           **Section 7. *Creation of the Office of the National Taxpayer Advocate.*** – In order  
2 to protect the rights of taxpayers and in recognition of the complexity of tax laws,  
3 both substantive and procedural, there is hereby created the Office of the National  
4 Taxpayer Advocate to promote tax compliance and assist taxpayers, individual or  
5 juridical. The Office of the National Taxpayer Advocate shall be under the  
6 administration and supervision of an official to be known as the National Taxpayer  
7 Advocate and shall be attached to the Office of the President for administrative  
8 purposes only. The National Taxpayer Advocate shall have the rank of Undersecretary  
9 and shall be appointed by the President of the Philippines.

10           The National Taxpayer Advocate shall be a Filipino citizen, at least forty (40)  
11 years of age, a member of the Philippine Bar in good standing, with at least ten (10)  
12 years of practice in the field of taxation, with proven integrity and competence, and  
13 must not have been convicted of any crime involving moral turpitude.

14           An individual cannot be appointed as the National Taxpayer Advocate if such  
15 individual has been an employee or officer of, or has rendered service as consultant  
16 or in any other capacity to, the BIR or the BOC or any of its agencies or has been a  
17 local treasurer for two (2) years prior to such appointment. A National Taxpayer  
18 Advocate cannot serve as officer or employee or consultant of, or be appointed to or  
19 act in whatever capacity in, the BIR or the BOC or as local treasurer, within five (5)  
20 years following his/her tenure as a National Taxpayer Advocate. For purposes of this  
21 Act, a local treasurer includes a municipal, city or provincial treasurer.

22           **Section 8. *Functions of Office of the Taxpayers Advocate.*** – It shall be the  
23 function of the Office of the Taxpayers Advocate to:

- 24           a. Assist taxpayers in resolving their problems with the BIR and BOC;
- 25           b. Identify areas in which taxpayers have problems in dealings with the BIR  
26           and BOC;
- 27           c. Propose changes, to the extent possible, in the administrative practices of  
28           the BIR and BOC with the end view of mitigating problems identified under  
29           the preceding paragraph;

- 1 d. Identify potential legislative changes which may be appropriate to mitigate  
2 such problems;
- 3 e. Issue taxpayer assistance orders upon application filed by a taxpayer with  
4 the Office of the National Taxpayer Advocate. The latter may issue a  
5 Taxpayer Assistance Order when: (i) it is determined that the taxpayer is  
6 suffering or about to suffer a significant hardship as a result of the manner  
7 in which the internal revenue laws are being administered by the BIR, BOC  
8 or the local treasurer; or (ii) the taxpayer meets such other requirements  
9 as are set forth in the implementing rules and regulations of this Act. For  
10 purposes of this paragraph, a significant hardship shall include: (i) an  
11 immediate threat of adverse action; (ii) any action that will violate the right  
12 to privacy of a taxpayer; (iii) a delay of more than thirty (30) days in  
13 resolving taxpayer account problems; (iv) the taxpayer will incur significant  
14 and unnecessary costs, including fees for professional representation, if  
15 relief is not granted; or (v) irreparable injury to, or a long-term adverse  
16 impact on, the taxpayer if relief is not granted. Nothing herein shall prevent  
17 the National Taxpayer Advocate from taking any action in the absence of  
18 an application mentioned herein;
- 19 f. In cases where any tax authority employee is not following the laws, rules  
20 and regulations or any applicable published administrative guidance, the  
21 National Taxpayer Advocate shall construe the factors taken into account in  
22 determining whether to issue a Taxpayer Assistance Order in the manner  
23 most favorable to the taxpayer;
- 24 g. Any Taxpayer Assistance Order issued by the National Taxpayer Advocate  
25 under this section may be modified or rescinded by the National Taxpayer  
26 Advocate, only if a valid written explanation was submitted by the  
27 Commissioner of Internal Revenue or the Commissioner of Customs, as the  
28 case may be, and that the reasons for the modification or rescission are  
29 specifically stated by the National Taxpayer Advocate in the rescission or  
30 modification order; and

- 1 h. The duration of any period of limitation with respect to any action for which  
2 a Taxpayer Assistance Order has been issued shall be suspended for the  
3 period beginning on the date of the taxpayer's application under subsection  
4 (e) and ending on the date of the National Taxpayer Advocate's decision  
5 with respect to such application and any period specified by the National  
6 Taxpayer Advocate in a Taxpayer Assistance Order issued pursuant to such  
7 application.

8 **Section 9.** *Submission of Annual Reports by the Office of the National*  
9 *Taxpayer Advocate.* – Not later than December 31 of each calendar year, the Office  
10 of the National Taxpayer Advocate shall submit a report to the Chairpersons of the  
11 Committee on Ways and Means of the Senate of the Philippines and House of  
12 Representatives on its activities during the fiscal year ending during such calendar  
13 year. Any such report shall contain full and substantive analysis, in addition to  
14 statistical information, and shall:

- 15 a. Identify the initiatives that the Office of the National Taxpayer Advocate has  
16 undertaken aimed at improving taxpayer services and the tax authorities'  
17 responsiveness;
- 18 b. Contain recommendations received from taxpayers by the Office of National  
19 Taxpayer Advocate;
- 20 c. Contain a summary of the most serious problems encountered by taxpayers,  
21 including a description of the nature of such problems;
- 22 d. Contain an inventory of the items described in subsections (a), (b), and (c)  
23 of this Section for which no action has been taken and the result of such  
24 action;
- 25 e. Contain an inventory of items described in subsections (a), (b), and (c) of  
26 this Section for which action remains to be completed and the period during  
27 which each item has remained on such inventory;



- 1 f. Contain an inventory of the items described in subsections (a), (b), and (c)  
2 of this Section for which no action has been taken, the period during which  
3 each item has remained on such inventory, the reasons for the inaction, and  
4 identify any BIR and BOC official or employee who is responsible for such  
5 inaction;
- 6 g. Identify any Taxpayer Assistance Office orders/recommendations which  
7 was not honored by the BIR and the BOC in a timely manner;
- 8 h. Contain recommendations for such administrative and legislative action as  
9 may be appropriate to resolve problems encountered by taxpayers;
- 10 i. Identify areas of the tax law that impose significant compliance burdens on  
11 taxpayers, the BIR, the BOC, and local treasurers including specific  
12 recommendations for remedying these problems;
- 13 j. Identify the most litigated issues for each category of taxpayers, including  
14 recommendations for mitigating such disputes; and
- 15 k. Include such other information as the National Taxpayer Advocate may  
16 deem relevant.

17 Each report required under this subparagraph shall be provided directly to the  
18 Committee on Ways and Means of the Senate of the Philippines and the House of  
19 Representatives without any prior review or comment from the respective  
20 Commissioner of BIR or BOC or any other officer or employee of the said Bureaus.  
21 The National Taxpayer Advocate shall furnish copies of said report to the Secretary of  
22 Finance, and to the respective Commissioners of the BIR and BOC.

23 The Commissioners of the BIR and BOC shall establish procedures requiring a  
24 formal response to all recommendations submitted to them by the National Taxpayer  
25 Advocate within three (3) months from the date of submission.

26 **Section 10. Other Responsibilities of the National Taxpayer Advocate.** – The  
27 National Taxpayer Advocate shall:



- 1 a. Monitor the coverage and geographic deployment of local officers of  
2 taxpayer advocates;
- 3 b. Develop guidelines to be distributed to all BIR and BOC officers and  
4 employees and the local treasurers outlining the criteria for referral of  
5 taxpayer inquiries to local offices of taxpayer advocates;
- 6 c. Ensure that the local telephone number for each local office of the taxpayer  
7 advocate is published and available to taxpayers served by the office; and
- 8 d. Develop career paths for local taxpayer advocates in the Office of the  
9 National Taxpayer Advocate.

10 **Section 11. *Personnel Actions of the National Taxpayer Advocate.*** – The  
11 National Taxpayer Advocate shall have the responsibility and authority to:

- 12 a. Appoint local taxpayer advocates and make available at least one (1) such  
13 advocate for each province; and
- 14 b. Evaluate and take personnel actions including dismissal with respect to any  
15 employee of any local office of the National Taxpayer Advocate described in  
16 subsection (a) of this Section.

17 The National Taxpayer Advocate may consult with the appropriate supervisory  
18 personnel of the BIR and BOR in carrying out the National Taxpayer Advocate's  
19 responsibilities and qualifications under this Section.

20 **Section 12. *Remedies.*** – Any violation of the provisions of this Act committed  
21 by any official or employee of the BIR or the BOC, other than the Commissioner of  
22 Internal Revenue and Commissioner of Customs, shall be filed with the office of the  
23 Commissioner of Internal Revenue or the Commissioner of Customs, as the case may  
24 warrant, with the assistance of the National Taxpayer Advocate. The Commissioner of  
25 Internal Revenue or the Commissioner of Customs shall decide the controversy  
26 expeditiously, which shall not in any case be more than sixty (60) days from the time  
27 the complaint or case is filed with their respective offices. Decisions of the  
28 Commissioner of Internal Revenue or the Commissioner of Customs concerning any

1 complaint or case for violation of the provisions of this Act, may be brought for review  
2 by the aggrieved party or the latter's authorized representative, to the Secretary of  
3 Finance. In case the Commissioner of Internal Revenue or Commissioner of Customs  
4 fail to act on such complaint or case within the time herein prescribed, the aggrieved  
5 party or the latter's authorized representative may file the complaint or case directly  
6 with the Secretary of Finance.

7         Complaints against the Commissioner of Internal Revenue or the Commissioner  
8 of Customs for violation of this Act shall be filed directly with the Secretary of Finance  
9 who shall decide the case within sixty (60) days from the date the complaint was filed.  
10 Decisions of the Secretary of Finance may be appealed before the Office of the  
11 President.

12         Any complaint or case filed pursuant to this Section shall be without prejudice  
13 to any other action that may be instituted against the employee or official of the BIR  
14 or the BOC under existing laws, rules and regulations.

15         Evidence against the taxpayers obtained in relation to this Act shall be  
16 inadmissible in any court or proceeding if found to have been obtained in violation of  
17 any of the above-enumerated taxpayer's rights.

18         **Section 13.** *Penalties for the Violation of the Bill of Rights of Taxpayers.* – Any  
19 person or public official who is found to have violated the Bill of Taxpayer's Rights  
20 shall be punished with imprisonment of not less than six (6) years nor more than  
21 twelve (12) years and a fine of not less than one hundred thousand pesos (Php  
22 100,000.00) but not more than five hundred thousand pesos (Php. 500,000.00).

23         **Section 14.** *Report of the Secretary of Department of Finance.* – On or before  
24 June 1 of each calendar year, the Secretary of the Department of Finance (DOF) shall  
25 submit and present to both the Chairpersons of the Senate and House of  
26 Representatives Ways and Means Committee a report on: (a) All categories of  
27 incidents involving the misconduct of the officers and employees of the BIR and BOC  
28 during the preceding calendar year; and (b) Action on and disposition of any such  
29 instances.

1           **Section 15. *Implementing Rules and Regulations.*** – Within thirty (30) days  
2 from the effectivity of this Act, the following shall promulgate the necessary rules and  
3 regulations for its effective implementation:

4           a) A representative from the DOF;

5           b) A representative from the BIR;

6           c) A representative from the BOC;

7           d) A representative from the Secretariat of the Congressional Oversight  
8 Committee on Comprehensive Tax Reform Program;

9           e) Representatives from the Committee on Ways and Means of both Houses  
10 of Congress; and

11           f) A representative each from a business association and the Philippine  
12 Institute of Certified Public Accountants (PICPA).

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

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

19           **Section 18. *Effectivity Clause.*** – This Act shall take effect fifteen (15) days  
20 after its publication in the *Official Gazette* or in at least two (2) national newspapers  
21 of general circulation.

22           *Approved,*