

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



'22 SEP 13 A11 :53

SENATE
S. No. 1309

RECEIVED BY: 

Introduced by SENATOR RAMON BONG REVILLA, JR.

AN ACT ORDAINING A BILL OF RIGHTS FOR TAXPAYERS

EXPLANATORY NOTE

"Tax is the lifeblood of the government. Without tax, the government cannot operate." Thus, to generate income, the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC), are mandated to collect national taxes, tariffs and duties, under Republic Act (R.A.) No. 8424, or the "*National Internal Revenue Code (NIRC) of 1997*", as amended, and R.A. 10863, or the "*Customs Modernization and Tariff Act*" (CMTA), respectively, to finance government projects, activities and programs.

In tax collection, the government is amply protected with laws that provide tax authorities with enormous power and resources to go after questionable taxpayers. While remedies are also available to taxpayers under the NIRC and CMTA, these provisions are scattered across several statutes that cause more confusion to taxpayers. Furthermore, reports persist that certain individuals have been subjected to harassment by some BIR and BOC officials and employees including the filing of undue and baseless complaints resulting in embarrassment on the part of the taxpayers. Indeed, protecting taxpayers is a balancing task that challenges the Government vis-a-vis its mandate to collect the necessary revenues for the Government.

Thus, this bill seeks to ordain a bill of rights for the taxpayers, which are divided into three main pillars: basic rights, right in civil cases, and rights in criminal cases. These rights are in addition to the legal rights and remedies already provided by the

1987 Constitution, NIRC, CMTA, R.A. 1125, or *"An Act Creating the Court of Tax Appeals"*, and all other laws, rules and regulations, and issuances in support thereof.

Furthermore, this measure seeks to establish the Office of the National Taxpayers Advocate with the following primary functions:

- a. assist taxpayers in resolving problems with the BIR and BOC;
- b. identify areas in which taxpayers have problems in dealings with the BIR and BOC;
- c. propose changes in the administrative practices of the BIR and BOC to mitigate problems identified under the preceding paragraph;
- d. identify potential legislative changes which may be appropriate to mitigate such problems; and
- e. issue taxpayer assistance orders.

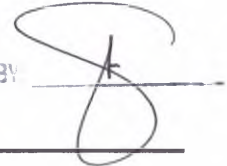
In view of the foregoing, the approval of this bill is earnestly sought.


RAMON BONG REVILLA, JR.
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AN ACT ORDAINING A BILL OF RIGHTS FOR TAXPAYERS

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

1 Section 1. *Title.* - This Act shall be known as "*The Taxpayer Bill of Rights Act*".

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

8 Sec. 3. *Taxpayer's Bill of Rights.* - In addition to the rights and remedies of the
9 taxpayers as provided for in the "*National Internal Revenue Code (NIRC)*" of 1997, as
10 amended; "*Customs Modernization and Tariff Act (CMTA)*", as amended; Republic Act
11 No. 1125, as amended, creating the "*Court of Tax Appeals (CTA)*"; and all other laws,
12 rules and regulations, issuances and circulars in support thereof, the taxpayers are
13 hereto granted the following:

- 14 a) taxpayers' basic rights;
15 b) taxpayers' rights in civil cases; and
16 c) taxpayers' rights in criminal cases, whether at the administrative level or at
17 the judicial level, concerning tax assessments, collection and refund, and prosecution
18 for criminal cases.

19 Sec. 4. *Taxpayers' Basic Rights.* — The following are the taxpayers' basic rights:

1 a. The right to be informed of any pending assessment, investigation for
2 criminal tax cases, collection or any other cases filed against the taxpayer or that the
3 taxpayer is a subject of any request for third-party information or any lifestyle check
4 for purposes of tax compliance. The right to available information and prompt,
5 accurate responses to questions and requests for tax assistance shall always be
6 ensured. In this regard, all revenue officers and agents shall undergo regular training
7 and evaluation on a variety of job standards including customer relations. This
8 standard requires agents to ensure that they fully explain to taxpayers their rights
9 under the law;

10 b. The right to obtain simple, nontechnical statements, which explain the
11 reason for audit selection and the procedures, remedies, and rights available during
12 audit, appeals and collection proceedings. These rights include, but are not limited to,
13 the rights pursuant to this Taxpayers' Bill of Rights and the right to be provided with
14 a narrative description which explains the basis of audit changes, proposed
15 assessments, assessments and denials of refunds; identifies any amount of tax,
16 interest, or penalty due; and states the consequences of the taxpayer's failure to
17 comply with the notice;

18 c. The right to have a speedy and impartial disposition of cases, the right to
19 due process and the observance of rules regarding assessments, refunds or any other
20 proceedings including requests for advisory rulings, clearances, termination letters and
21 lifting of seizure, garnishment and forfeiture orders, whether it be against 5 the
22 taxpayer or against the officials and staff of the Bureau of Internal Revenue (BIR), the
23 Bureau of Customs (BOC) and other government agencies including government-
24 owned and -controlled corporations (GOCCs), government financial institutions (GFIs),
25 and local government units (LGUs) tasked with the enforcement of revenue or banking
26 and financial laws, whether of local or national application;

27 d. The right to privacy as guaranteed by the Constitution, and the right to have
28 any case or proceeding, including those involving third-party information requests
29 against or involving the taxpayer, to be devoid of publicity, whether through radio,
30 television, newspaper or any alternative media, while said case or proceeding is
31 pending;

32 e. The right to seek assistance from the National Taxpayer Advocate who shall

1 be responsible for facilitating the resolution of taxpayer complaints and problems not
2 resolved through the normal administrative channels within the BIR or BOC, including
3 any taxpayer complaints regarding unsatisfactory treatment by BIR or BOC
4 employees. The taxpayers' rights advocate may issue a stay order if a taxpayer has
5 suffered or is about to suffer irreparable loss as a result of an unjust action by the said
6 Bureaus;

7 f. The right to have the taxpayer's tax information kept confidential unless
8 otherwise authorized by law;

9 g. The right to participate in free education activities that help the taxpayer
10 successfully comply with the revenue laws of the State;

11 h. The right to fair and consistent application of the tax laws of the State by
12 the BIR and BOC;

13 i. The right to have the BIR begin and complete its audits in a timely and
14 expeditious manner after notification of intent to audit through a letter of authority.
15 Such audit shall be conducted only once per year unless otherwise provided by law;

16 j. The right to request for installment payment of tax liabilities under any
17 compromise settlement or any assessed tax liabilities pursuant to Taxpayer Assistance
18 Order;

19 k. The right to recover attorney's fees and litigation costs for tax assessments
20 made without substantial justification, and for claims for tax refunds which are not
21 acted upon for an unreasonable length of time at the administrative level, or denied
22 at the administrative level but subsequently allowed by the CTA if it appears that such
23 denial was unjustified. The award of attorney's fees and costs of litigation shall be
24 included in the order upholding the taxpayer's claim;

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

29 m. The right to have the assistance of counsel in criminal proceedings, should
30 the taxpayer request for it.

31 *Sec. 5. Taxpayers' Rights in Civil Cases.* - The following are the taxpayers' rights
32 in civil cases:

1 a. The right to have the opportunity to have the case against the taxpayer
2 amicably settled, as the case may warrant; Provided, That in every stage of the
3 proceeding, whether in the administrative or judicial level, the parties shall always be
4 given the chance to exhaust all and every remedy available for the speedy settlement
5 of the case: Provided, however. That nothing in this Act shall deprive the court of
6 competent jurisdiction of its judicial prerogatives;

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

11 c. The right to have all other collection actions attempted before a jeopardy
12 assessment is suspended, unless delay will endanger collection and, after a jeopardy
13 assessment, the right to have an immediate review of the jeopardy assessment. As
14 used herein, jeopardy assessment is a tax assessment made by an authorized revenue
15 officer (RO) without the benefit of a complete or partial audit, considering the RO's
16 judgment that the assessment and collection of a deficiency tax will be jeopardized by
17 delay caused by the taxpayer's failure to:

18 (1) comply with audit and investigation requirements to present his
19 books of accounts and/or pertinent records; or

20 (2) substantiate all or any of the deductions, exemptions or credits 20
21 claimed in his return;

22 d. The right to seek review, through formal or informal proceedings, of any
23 adverse decisions relating to determinations in the audit or collection processes and
24 the right to seek a reasonable administrative stay enforcement action while the
25 taxpayer pursues other administrative remedies available under the law;

26 e. The right to be informed of the procedures for conditional termination of tax
27 obligations through installment payment agreements which recognize both the
28 taxpayer's financial condition and the best interests of the State: Provided, That the
29 taxpayer gives accurate and current information and meets all other tax obligations
30 on schedule;

31 f. The right to be informed of the procedures for requesting cancellation,
32 release, or modification of liens filed by the BIR and the BOC and for requesting that

1 any lien which is filed in error be so noted on the lien cancellation filed by the BIR and
2 the BOC, with public notice to any credit agency at the taxpayer's request;

3 g. The right of the taxpayer in a judicial or administrative action brought or
4 maintained without the support of Justiciable issues of fact or law, to recover all costs
5 of the administrative or judicial action, including reasonable attorney's fees; and

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

10 Sec. 6. *Taxpayers' Rights In Criminal Tax Cases.* - The following are the
11 taxpayers' rights in criminal tax cases:

12 a. The right to be knowledgeably and intelligently informed of the charges as
13 contained in any properly and timely prepared audit report, assessment notice,
14 correspondence, document, letter and the like, as implemented by rules and
15 regulations, as the case may be, coming from the BIR or BOC or any government
16 agency tasked to enforce the revenue laws and banking and financial laws, in
17 appropriate cases;

18 b. The right to be given ample and adequate opportunity, as the situation may
19 warrant, to present evidence at the taxpayer's or anybody else's possession that would
20 assist the taxpayer in the pursuit of the case;

21 c. The right to seek the assistance of competent and willing counsel of the
22 taxpayer's own choice, to help and assist the taxpayer in the preparation or defense
23 of the case;

24 d. The right to be served with all the necessary documents and papers
25 appurtenant thereto, relative to the charges against the taxpayer, in a manner that
26 would assist and expeditiously present the taxpayer's side pursuant to the charges
27 against the taxpayer;

28 e. The right to present the taxpayer's own witnesses: and

29 f. The right to be represented or advised by counsel or other qualified
30 representatives at any time in administrative interactions with the BIR and the BOC;
31 the right to procedural safeguards with respect to recording of interviews during tax
32 determination or collection processes conducted by the BIR and the BOC; the right to

1 be treated in a professional manner by the BIR and the BOC personnel; and the right
2 to have audits, inspections of records, and interviews conducted at a reasonable time
3 and place except in criminal and internal investigations.

4 *Sec. 7. Creation of the Office of the National Taxpayer Advocate.* - In order to
5 protect the rights of taxpayers and in recognition of the complexity of tax laws, both
6 substantive and procedural, there is hereby created the Office of the National
7 Taxpayer Advocate to promote tax compliance and assist taxpayers, individual or
8 juridical. The Office of the National Taxpayer Advocate shall be under the
9 administration and supervision of an official to be known as the National Taxpayer
10 Advocate and shall be attached to the Office of the President for administrative
11 purposes only. The National Taxpayer Advocate shall have the rank of Undersecretary
12 and shall be appointed by the President of the Philippines. The National Taxpayer
13 Advocate shall be a Filipino citizen, at least forty (40) years of age, a member of the
14 Philippine Bar in good standing, with at least ten (10) years of practice in the field of
15 taxation, with proven integrity and competence, and must not have been convicted of
16 any crime involving moral turpitude. An individual cannot be appointed as the National
17 Taxpayer Advocate if such individual has been an employee or officer of, or has
18 rendered service as consultant or in any other capacity to, the BIR or the BOC or any
19 of its agencies or has been a local treasurer for two (2) years prior to such
20 appointment. A National Taxpayer Advocate cannot serve as officer or employee or
21 consultant of, or be appointed to or act in whatever capacity in, the BIR or the BOC
22 or as local treasurer, within five (5) years following his/her tenure as a National
23 Taxpayer Advocate. For purposes of this Act, a local treasurer includes a municipal,
24 city or provincial treasurer

25 *Sec. 8. Functions of the Office of the Taxpayers Advocate.* — It shall be the
26 function of the Office of the Taxpayers Advocate to:

- 27 a. Assist taxpayers in resolving their problems with the BIR and BOC;
- 28 b. Identify areas in which taxpayers have problems in dealings with the BIR
29 and BOC;
- 30 c. Propose changes, to the extent possible, in the administrative practices of
31 the BIR and BOC with the end in view of mitigating problems identified under the
32 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 Taxpayer
5 Assistance Order when:

6 (i) it is determined that the taxpayer is suffering or about to suffer a significant
7 hardship as a result of the manner in which the internal revenue laws are being
8 administered by the BIR, BOC or the local treasurer; or

9 (ii) the taxpayer meets such other requirements as are set forth in the
10 implementing rules and regulations of this Act.

11 For purposes of this paragraph, a significant hardship shall include:

12 (i) an immediate threat of adverse action;

13 (ii) any action that will violate the right to privacy of a taxpayer;

14 (iii) a delay of more than thirty (30) days in resolving taxpayer account
15 problems;

16 (iv) the taxpayer will incur significant and unnecessary costs, including fees for
17 professional representation, if relief is not granted; or

18 (v) irreparable injury to, or a long-term adverse impact on, the taxpayer if relief
19 is not granted. Nothing herein shall prevent the National Taxpayer Advocate from
20 taking any action in the absence of an application mentioned herein;

21 f. In cases where any tax authority employee is not following the laws, rules
22 and regulations or any applicable published administrative guidance, the National
23 Taxpayer Advocate shall construe the factors taken into account in determining
24 whether to issue a Taxpayer Assistance Order in the manner most favorable to the
25 taxpayer;

26 g. Any Taxpayer Assistance Order issued by the National Taxpayer Advocate
27 under this section may be modified or rescinded by the National Taxpayer Advocate,
28 only if a valid written explanation was submitted by the Commissioner of Internal
29 Revenue or the Commissioner of Customs, as the case may be, and that the reasons
30 for the modification or rescission are specifically stated by the National Taxpayer
31 Advocate in the rescission or modification order; and

32 h. The duration of any period of limitation with respect to any action for which

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

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

13 a. Identify the initiatives that the Office of the National Taxpayer Advocate has
14 undertaken aimed at improving taxpayer services and the tax authorities'
15 responsiveness;

16 b. Contain recommendations received from taxpayers by the Office of National
17 Taxpayer Advocate;

18 c. Contain a summary of the most serious problems encountered by taxpayers,
19 including a description of the nature of such problems;

20 d. Contain an inventory of the items described in subsections (a), (b), and (c)
21 of this Section for which action has been taken and the result of such action;

22 e. Contain an inventory of the items described in subsections (a), (b), and 6 (c)
23 of this Section for which action remains to be completed and the period during which
24 each item has remained on such inventory;

25 f. Contain an inventory of the items described in subsections (a), (b), and (c)
26 of this Section for which no action has been taken, the period during which each item
27 has remained on such inventory, the reasons for the inaction, and identify any BIR
28 and BOC official or employee who is responsible for such inaction;

29 g. Identify any Taxpayer Assistance Office orders/recommendations which was
30 not honored by the BIR and the BOC in a timely manner;

31 h. Contain recommendations for such administrative and legislative action as
32 may be appropriate to resolve problems encountered by taxpayers;

1 i. Identify areas of the tax law that impose significant compliance burdens on
2 taxpayers, the BIR, the BOC, and local treasurers including specific recommendations
3 for remedying these problems;

4 j. Identify the most litigated issues for each category of taxpayers, including 20
5 recommendations for mitigating such disputes; and

6 k. Include such other information as the National Taxpayer Advocate may deem
7 relevant. Each report required under this subparagraph shall be provided directly to
8 the Committee on Ways and Means of the Senate of the Philippines and the House of
9 Representatives without any prior review or comment from the respective
10 Commissioner of BIR or BOC or any other officer or employee of the said Bureaus.
11 The National Taxpayer Advocate shall furnish copies of said report to the Secretary of
12 Finance, and to the respective Commissioners of the BIR and BOC. The
13 Commissioners of the BIR and BOC shall establish procedures requiring a formal
14 response to all recommendations submitted to them by the National Taxpayer
15 Advocate within three (3) months from the date of submission.

16 *Sec. 10. Other Responsibilities of the National Taxpayer Advocate.* - The
17 National Taxpayer Advocate shall:

18 a. Monitor the coverage and geographic deployment of local offices of taxpayer
19 advocates;

20 b. Develop guidelines to be distributed to all BIR and BOC officers and
21 employees and the local treasurers outlining the criteria for referral of taxpayer
22 inquiries to local offices of taxpayer advocates;

23 c. Ensure that the local telephone number for each local office of the taxpayer
24 advocate is published and available to taxpayers served by the office; and

25 d. Develop career paths for local taxpayer advocates in the Office of the
26 National Taxpayer Advocate.

27 *Sec. 11. Personnel Actions of the National Taxpayer Advocate.* - The National
28 Taxpayer Advocate shall have the responsibility and authority to:

29 a. Appoint local taxpayer advocates and make available at least one (1) such
30 advocate for each province; and

31 b. Evaluate and take personnel actions including dismissal with respect to any
32 employee of any local office of the National Taxpayer Advocate described in subsection

1 (a) of this Section. The National Taxpayer Advocate may consult with the appropriate
2 supervisory personnel of the BIR and BOC in carrying out the National Taxpayer
3 Advocate's responsibilities and qualifications under this Section.

4 Sec. 12. *Remedies.* - Any violation of the provisions of this Act committed by
5 any official or employee of the BIR or the BOC, other than the Commissioner of
6 Internal Revenue and Commissioner of Customs, shall be filed with the office of the
7 Commissioner of Internal Revenue or the Commissioner of Customs, as the case may
8 warrant, with the assistance of the National Taxpayer Advocate. The Commissioner of
9 Internal Revenue or the Commissioner of Customs shall decide the controversies
10 expeditiously, which shall not in any case be more than sixty (60) days from the time
11 the complaint or case is filed with their respective offices. Decisions of the
12 Commissioner of Internal Revenue or the Commissioner of Customs concerning any
13 complaint or case for violation of the provisions of this Act, may be brought for review
14 by the aggrieved party or the latter's authorized representative, to the Secretary of
15 Finance.

16 In case the Commissioner of Internal Revenue or Commissioner of Customs fail
17 to act on such a complaint or case within the time herein prescribed, the aggrieved
18 party or the latter's authorized representative may file the complaint or case directly
19 with the Secretary of Finance. Complaints against the Commissioner of Internal
20 Revenue or the Commissioner of Customs for violation of this Act shall be filed directly
21 with the Secretary of Finance who shall decide the case within sixty (60) days from
22 the date the complaint was filed. Decisions of the Secretary of Finance may be
23 appealed before the Office of the President. Any complaint or case filed pursuant to
24 this Section shall be without prejudice to any other action that may be instituted
25 against the employee or official of the BIR or the BOC under existing laws, rules and
26 regulations. Evidence against the taxpayers obtained in relation to this Act shall be
27 inadmissible in any court or proceeding if found to have been obtained in violation of
28 any of the above-enumerated taxpayer's rights.

29 Sec. 13. *Penalties for the Violation of the Bill of Rights of Taxpayers.* - Any
30 person or public official who is found to have violated the Bill of Taxpayers Rights shall
31 be punished with imprisonment of not less than six (6) years nor more than twelve
32 (12) years and a fine of not less than one hundred thousand pesos (Phpl00,000.00)

1 but not more than five hundred thousand pesos (Php500,000.00).

2 Sec. 14. *Report of the Secretary of Department of Finance.* - On or before June
3 1 of each calendar year, the Secretary of the Department of Finance (DOF) shall
4 submit and present to both the Chairpersons of the Senate and House of
5 Representatives Ways and Means Committee a report on:

6 (a) All categories of incidents involving the misconduct of the officers and
7 employees of the BIR and BOC during the preceding calendar year; and

8 (b) Action on and disposition of any such instances.

9 Sec. 15. *Implementing Rules and Regulations.* - Within thirty (30) days from
10 the effectivity of this Act, the following shall promulgate the necessary rules and
11 regulations for its effective implementation:

12 a. A representative from the DOF;

13 b. A representative from the BIR;

14 c. A representative from the BOC;

15 d. A representative from the Secretariat of the Congressional Oversight
16 Committee on Comprehensive Tax Reform Program; and

17 f. Representatives from the private sector.

18 Sec. 16. *Separability Cause.* - If any provision of this Act is declared invalid or
19 unconstitutional, other provisions hereof which are not affected thereby shall remain
20 in full force and effect.

21 Sec. 17. *Repealing Cause.* - All laws, orders, decrees, rules and regulations, and
22 other parts thereof inconsistent with the provisions of this Act are hereby repealed,
23 amended or modified accordingly.

24 Sec. 18. *Effectivity Cause.* - This Act shall take effect fifteen (15) days after its
25 publication in the *Official Gazette* or in at least two (2) national newspapers of general
26 circulation.

Approved,