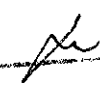


FOURTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

7 AUG 14 2007

RECEIVED BY: 

SENATE

P. S. Resolution No. 74

Introduced by Senator FRANCIS G. ESCUDERO

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON WAYS AND MEANS TO INQUIRE IN AID OF LEGISLATION INTO THE LEGALITY OF REVENUE REGULATION NO. 9-2007 ISSUED BY THE DEPARTMENT OF FINANCE UPON RECOMMENDATION OF THE BUREAU OF INTERNAL REVENUE ON 04 JULY 2007 WITH THE END IN VIEW OF ENACTING LEGISLATIVE MEASURES TO ADDRESS THE SAME

WHEREAS, on 04 July 2007, the Department of Finance (DOF) through Secretary Margarito B. Teves upon the recommendation of the Bureau of Internal Revenue (BIR) through OIC-Commissioner Lilian B. Hefti issued Revenue Regulation No. 9-2007 updating the minimum monthly/quarterly gross receipts of domestic carriers and keepers of garages subject to the three percent (3%) percentage tax imposed under Section 117 of the National Internal Revenue Code of 1997, hereinafter referred to as the Code, as amended;

WHEREAS, Revenue Regulation No. 9-2007 was issued on the basis of Section 244 in relation to Section 128 of the Code;

WHEREAS, the two (2) provisions of the Code used as legal basis in the issuance of Revenue Regulation No. 9-2007 do not give the DOF upon the recommendation of the BIR the power and prerogative to update or increase the minimum quarterly/monthly taxable gross receipts of domestic carriers and keepers of garage;

WHEREAS, Section 244 speaks of the power and authority of the Secretary of Finance to promulgate rules and regulations upon the recommendation of the BIR Commissioner for the effective enforcement of the provisions of the Code, while Section 128, specifically paragraph (4) thereof, provides for the determination of correct sales or receipts by the BIR Commissioner alone when certain conditions are found to be present such as failure to issue receipts or invoices, non-filing of return or unreliable returns;

WHEREAS, a simple reading of the 2 provisions cited would mean that no correlation exists between them since Section 244 is about issuance of regulations of general application in the exercise of the DOF's quasi-legislative function in accordance with the authority delegated to it by Congress and Section 128, on the

other hand, refers to a mere administrative function of the BIR Commissioner that is meant to specifically apply only to particular cases such as those circumstances mentioned therein;

WHEREAS, the additional tax burden to be imposed by Revenue Regulations No. 9-2007 will eventually hit the commuting public in the form of higher fares because transport operators will surely clamor for an increase in minimum fare;

WHEREAS, it is also incorrect to say that Revenue Regulation No. 9-2007 is not a new tax since the adjusted tax base translates to a 2,600 percent increase in tax from the current rate;

WHEREAS, Revenue Regulation No. 9-2007 is likewise procedurally flawed since there is no indication that proper and sufficient consultations were had with the sectors to be affected in view of the nature and purpose of taxation which is synonymous to taking of property;

WHEREAS, the DOF and the BIR in issuing Revenue Regulation No. 9-2007 is in effect encroaching upon the prerogative of Congress and going beyond its delegated authority pursuant to the Code;

WHEREAS, recent news reports saying that Malacañang has put on hold the implementation of Revenue Regulation No. 9-2007 may be regarded as sufficient proof to show that it is irregularly, if not illegally, issued;

NOW, THEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED THAT the Committee on Ways and Means inquire in aid of legislation into the legality of Revenue Regulation No. 9-2007 issued by the Department of Finance upon recommendation of the Bureau of Internal Revenue with the end in view of enacting legislative measures to address the same.

Adopted,



FRANCIS G. ESCUDERO