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Third Regular Session)

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SENATE



S.B. No. 2479

(In substitution of HB No. 2933, in consideration of SB No. 1325 and SB No. 2028)

Prepared by the Committee with Senators Recto and Revilla, Jr. as authors thereof.

AN ACT

ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2005 AND PRIOR YEARS

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

1 **SECTION 1. Coverage.** - There is hereby authorized and granted a tax amnesty
2 which shall cover all national internal revenue taxes for the taxable year 2005 and prior
3 years, with or without assessments duly issued therefor, that have remained unpaid as of
4 December 31, 2005: *Provided, however,* That the amnesty hereby authorized and granted
5 shall not cover persons or cases enumerated under Section 8, hereof.

6 **SEC. 2. Availment of the Amnesty.** - Any person, natural or juridical, who wishes
7 to avail himself of the tax amnesty authorized and granted under this Act shall file with the
8 Bureau of Internal Revenue (BIR) a notice and Tax Amnesty Return accompanied by a
9 Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005, in such
10 form as may be prescribed in the Implementing Rules and Regulations (IRR) of this Act
11 and pay the applicable amnesty tax within four (4) months from the effectivity of the
12 IRR.

13 **SEC. 3. What to Declare in the SALN.** - The SALN shall contain a declaration of
14 the assets, liabilities and networth as of December 31, 2005, as follows:

15 (a) Assets within or without the Philippines, whether real or personal, tangible or
16 intangible, whether or not used in trade or business: *Provided,* That property other than

1 money shall be valued at the cost at which the property was acquired: *Provided, further,*
2 That foreign currency assets and/or securities shall be valued at the rate of exchange
3 prevailing as of the date of SALN;

4 (b) All existing liabilities which are legitimate and enforceable, secured or
5 unsecured, whether or not incurred in trade or business; and

6 (c) The networth of the taxpayer, which shall be the difference between the total
7 assets and total liabilities.

8 **SEC. 4. *Presumption of Correctness of SALN.*** - The SALN as of December 31,
9 2005 shall be considered as true and correct except where the amount of declared networth
10 is understated to the extent of thirty percent (30%) or more as may be established in
11 proceedings initiated by, or at the instance of, parties other than the BIR or its agents:
12 *Provided,* That such proceedings must be initiated within one (1) year following the date of
13 the filing of the Tax Amnesty Return and the SALN. Findings of or admission in
14 Congressional hearings, other administrative agencies of government, and/or courts shall
15 be admissible to prove a thirty percent (30%) under-declaration.

16 **SEC. 5. *Grant of Tax Amnesty.*** - Except for the persons or cases covered in
17 Section 8 hereof, any person, whether natural or juridical, may avail himself of the benefits
18 of tax amnesty under this Act, and pay the amnesty tax due thereon, based on his networth
19 as of December 31, 2005 as declared in the SALN as of said period, in accordance with the
20 following schedule of amnesty tax rates and minimum amnesty tax payments required:

21 (a) Individuals (whether resident or
22 non-resident citizens, including
23 resident aliens), Trusts and Estates - - - - - 10% or P50,000
24 whichever is higher

25 (b) Corporations
26 (1) with subscribed
27 capital of above P50 million- - - - - 10% or P500,000
28 whichever is higher

- 1 (2) with subscribed
2 capital of above P20 million up
3 to P50 million- - - - - 10% or P250,000,
4 whichever is higher
- 5 (3) with subscribed capital
6 of P5 million to P20 million - - - - - 10% or P100,000,
7 whichever is higher
- 8 (4) with subscribed capital
9 of below P5 million - - - - - 10% or P25,000
10 whichever is higher.
- 11 (c)other juridical entities,
12 including but not limited to
13 cooperatives and foundations,
14 that have become taxable as
15 of December 31, 2005 - - - - - 10% or P50,000
16 whichever is higher.

17 **SEC. 6 Immunities and Privileges.** - Those who availed themselves of the tax
18 amnesty under Section 5 hereof, and have fully complied with all its conditions shall be
19 entitled to the following immunities and privileges:

20 (a) The taxpayer shall be immune from the payment of taxes, as well as additions
21 thereto and appurtenant civil, criminal or administrative penalties, under the National
22 Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all
23 internal revenue taxes for taxable year 2005 and prior years;

24 (b) The taxpayer's Tax Amnesty Return and SALN as of December 31, 2005 shall
25 not be admissible as evidence in all proceedings that pertain to taxable year 2005 and prior
26 years, insofar as such proceedings relate to internal revenue taxes, before judicial, quasi-
27 judicial or administrative bodies in which he is a defendant or respondent, and, except for
28 the purpose of ascertaining the networth beginning January 1, 2006, the same shall not be

1 examined, inquired or looked into by any person or government office. However, the
2 taxpayer may use this as a defense, whenever appropriate, in cases brought against him.

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

9 All these immunities and privileges shall not apply where the person failed to file a
10 SALN and Tax Amnesty Return, or where the amount of networth as of December 31,
11 2005 is proven to be understated to the extent of thirty percent (30%) or more, in
12 accordance with the provisions of Section 3 hereof.

13 **SEC. 7. *When and Where To File and Pay.*** - The filing of the Tax Amnesty
14 Return and the payment of the amnesty tax for those availing themselves of the tax
15 amnesty shall be made within four (4) months starting from the effectivity of the IRR. It
16 shall be filed at the Office of the Revenue District Officer which has jurisdiction over the
17 legal residence or principal place of business of the filer. The Revenue District Officer
18 shall issue an acceptance of payment form authorizing an authorized agent bank, or in the
19 absence thereof, the Collection Agent or Municipal Treasurer concerned, to accept the
20 amnesty tax payment.

21 **SEC. 8. *Exceptions.*** - The tax amnesty provided in Section 5 hereof shall not
22 extend to the following persons or cases existing as of the effectivity of this Act:

- 23 (a) Withholding agents with respect to their withholding tax liabilities;
24 (b) Those with pending cases falling under the jurisdiction of the Presidential
25 Commission on Good Government;
26 (c) Those with pending cases involving unexplained or unlawfully
27 acquired wealth or under the Anti-Graft and Corrupt Practices Act;

1 (d) Those with pending cases filed in court involving violation of the Anti-Money
2 Laundering Law;

3 (e) Those with pending criminal cases for tax evasion and other criminal offenses
4 under Chapter II of Title X of the National Internal Revenue Code of 1997, as
5 amended, and the felonies of frauds, illegal exactions and transactions, and
6 malversation of public funds and property under Chapter III and IV of Title VII of
7 The Revised Penal Code; and

8 (f) Tax cases subject of final and executory judgment by the courts.

9 **SEC. 9. *Unlawful Divulgence of Tax Amnesty Return and Statement of Assets,***
10 ***Liabilities and Networth.*** - Except as otherwise provided herein and in Section 14 hereof,
11 it shall be unlawful for any person having knowledge of the Tax Amnesty Return and
12 SALN filed pursuant hereto, to disclose any information relative to such declaration and
13 statement, and any violation hereof shall subject the offender to the penalties under Section
14 12(C) of this Act: *Provided, however,* That the Commissioner of Internal Revenue may
15 disclose the content of the Tax Amnesty Return and SALN upon the request of Congress
16 pursuant to and in accordance with Section 20(A) or Section 290 of the National Internal
17 Revenue Code of 1997, as amended.

18 **SEC. 10. *Penalties.*** - (a) Any person who, having filed a statement or Tax
19 Amnesty Return under this Act, willfully understates his networth to the extent of thirty
20 percent (30%) or more shall, upon conviction, be subject to the penalties of perjury under
21 the Revised Penal Code.

22 (b) The willful failure to declare any property in the statement and/or in the Tax
23 Amnesty Return shall be deemed a *prima facie* evidence of fraud and shall constitute a
24 ground upon which attachment of such property may be issued in favor of the BIR to
25 answer for the satisfaction of any judgment that may be acquired against the declarant.

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

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

4 (c) Any person who makes an unlawful divulgence of Tax Amnesty Return or
5 SALN shall be penalized by a fine of not less than Fifty thousand pesos (P50,000) and
6 imprisonment of not less than six (6) years but not more than ten (10) years.

7 If the offender is an officer or employee of the BIR or any government entity,
8 he/she shall likewise suffer an additional penalty of perpetual disqualification to hold
9 public office, to vote and to participate in any public election.

10 **SEC. 11. *Moratorium on the Grant of Tax Amnesty.*** - In order to encourage and
11 improve tax compliance by taxpayers, it is hereby declared the policy of this Congress that
12 the grant of tax amnesty, in whatever manner and form shall not henceforth be allowed:
13 *Provided, further,* That this moratorium shall likewise apply to any administrative tax
14 amnesty by the BIR.

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

22 **SEC. 13. *Disposition of Proceeds from the Tax Amnesty.*** - An amount equivalent
23 to Four hundred million pesos (P400,000,000) of the collection from the tax amnesty
24 herein granted shall accrue to the Department of Finance and shall be used exclusively for
25 purposes of instituting a Management Information System as mandated under Section 12
26 of this Act.

27 **SEC. 14. *Publication of List of Taxpayers and Filers.*** - Following the
28 implementation of the tax amnesty authorized and granted under this Act, the provisions of
29 Sections 71 and 270 of the National Internal Revenue Code of 1997, as amended, and

1 Section 26 of Republic Act No. 6388, to the contrary notwithstanding, the Commissioner
2 of Internal Revenue shall, on or before May 31 following the close of each calendar year,
3 prepare a list containing the names of all taxpayers, their gross income and amount of
4 income taxes paid for the immediately preceding taxable year, and allow the publication of
5 the same in at least two (2) newspapers of general circulation or the Bureau of Internal
6 Revenue website.

7 **SEC. 15. *Implementing Rules and Regulations.*** - The Secretary of Finance shall,
8 in coordination with the Commissioner of Internal Revenue, promulgate and publish the
9 necessary rules and regulations within sixty (60) days from the effectivity of this Act.

10 **SEC. 16. *Effectivity.*** - This Act shall take effect fifteen (15) days after its
11 publication in the Official Gazette or in any two (2) newspapers of general circulation,
12 whichever comes earlier.

Approved,