

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



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SENATE

S. B. No. 763 RECEIVED BY: 

Introduced by Senator FRANCIS G. ESCUDERO

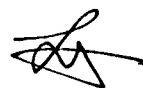
AN ACT
AMENDING SECTION 112, CHAPTER I, TITLE IV OF THE NATIONAL
INTERNAL REVENUE CODE, AS AMENDED

EXPLANATORY NOTE

This bill has the intention of making efficient and effective the administration of claims for tax refunds and tax credits under the National Internal Revenue Code, specifically Section 112, Chapter I, Title IV thereof, as amended. It proposes a two pronged approach: 1) the Bureau of Internal Revenue (BIR) is given more time to assess and deliberate on applications for claims for refunds and tax credits; and 2) the Court of Tax Appeals (CTA) is relieved of the duty to rule on such claims more often thereby declogging its court dockets.

Consequently, as a primary administrative function where complete submission of all documents is required from qualified taxpayers, claims for tax refunds and tax credits can contribute to attracting investments, foreign and domestic, in the Philippines. As a form of a business incentive, it is quite imperative that the policy on the matter must be defined and administered with efficiency. Bringing it in practice as a litigated matter negates the purpose of refunds and tax credits, which could only mean more expenses and lengthier realization of benefits.

Hence, it is respectfully submitted that this proposed measure be acted upon with dispatch.




FRANCIS G. ESCUDERO

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AN ACT
AMENDING SECTION 112, CHAPTER I, TITLE IV OF THE NATIONAL
INTERNAL REVENUE CODE, AS AMENDED

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

1 SECTION 1. Section 112, Chapter I, Title IV of the National Internal Revenue
2 Code, as amended, is hereby further amended to read as follows:

3
4 "Section 112. Refunds or Tax Credits of Input Tax. -

5 (A) *Zero-rated or Effectively Zero-rated Sales.* - any VAT-registered person,
6 whose sales are zero-rated or effectively zero-rated may, within [two
7 (2)]THREE (3) years after the close of the taxable quarter when the sales
8 were made, apply for the issuance of a tax credit certificate or refund of
9 creditable input tax due or paid attributable to such sales, except
10 transitional input tax, to the extent that such input tax has not been
11 applied against output tax: Provided, however, That in the case of zero-
12 rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108
13 (B)(1) and (2), the acceptable foreign currency exchange proceeds
14 thereof had been duly accounted for in accordance with the rules and
15 regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,*
16 That where the taxpayer is engaged in zero-rated or effectively zero-
17 rated sale and also in taxable or exempt sale of goods of properties or
18 services, and the amount of creditable input tax due or paid cannot be
19 directly and entirely attributed to any one of the transactions, it shall be
20 allocated proportionately on the basis of the volume of sales.

21
22 (B) *Capital Goods.* - A VAT-registered person may apply for the issuance
23 of a tax credit certificate or refund of input taxes paid on capital goods
24 imported or locally purchased, to the extent that such input taxes have
25 not been applied against output taxes. The application may be made
26 only within [two (2)] THREE (3) years after the close of the taxable
27 quarter when the importation or purchase was made.

28
29 (C) *Cancellation of VAT Registration.* - A person whose registration has
30 been cancelled due to retirement from or cessation of business, or due to
31 changes in or cessation of status under Section 106(C) of this Code may,
32 within [two (2)] THREE (3) years from the date of cancellation, apply
33 for the issuance of a tax credit certificate for any unused input tax which

1 may be used in payment of his other internal revenue taxes.

2
3 (D) *Period within which Refund or Tax Credit of Input Taxes shall be Made.* -
4 In proper cases, the Commissioner shall grant a refund or issue the tax
5 credit certificate for creditable input taxes within [one hundred twenty
6 (120)] **ONE HUNDRED EIGHTY (180)** days from the date of
7 submission of complete documents in support of the application filed in
8 accordance with Subsections (A) and (B) hereof.

9
10 In case of full or partial denial of the claim for tax refund or tax credit,
11 **WHICH SHALL HAVE BASIS IN FACT OR LAW OR BOTH** [or the
12 failure on the part of the Commissioner to act on the application within
13 the period prescribed above], the taxpayer affected may, within thirty
14 (30) days from the receipt of the decision denying the claim [or after the
15 expiration of the one hundred twenty day-period], appeal the decision
16 [or the unacted claim] with the Court of Tax Appeals. **FAILURE ON**
17 **THE PART OF THE COMMISSIONER TO ACT ON THE CLAIM**
18 **FOR TAX REFUND OR TAX CREDIT WITHIN ONE HUNDRED**
19 **EIGHTY (180) DAYS FROM THE DATE OF SUBMISSION OF**
20 **COMPLETE DOCUMENTS IN SUPPORT OF THE APPLICATION**
21 **FILED IN ACCORDANCE WITH SUBSECTIONS (A) AND (B)**
22 **HEREOF SHALL BE TANTAMOUNT TO APPROVAL.**

23
24 (E) *Manner of Giving Refund.* - Refunds shall be made upon warrants
25 drawn by the Commissioner or by his duly authorized representative
26 without the necessity of being countersigned by the Chairman,
27 Commission on Audit, the provisions of the Administrative Code of
28 1987 to the contrary notwithstanding: Provided, That refunds under this
29 paragraph shall be subject to post audit by the Commission on Audit.”
30

31 **SEC. 2.** *Amendatory and Repealing Clause.* - Republic Act No. 8424, as
32 amended, specifically Section 112, Chapter I, Title IV, thereof, and other provisions
33 inconsistent herewith are hereby amended, repealed or modified accordingly. Revenue
34 Memorandum Circular No. 54-2014 of the Bureau of Internal Revenue and all other
35 laws, orders and proclamations, rules, circulars, and regulations or parts thereof,
36 inconsistent with or contrary to the provisions of this Act or its purposes are likewise
37 hereby amended, repealed or modified accordingly.

38 **SEC. 3.** *Separability Clause.* If any provision or part hereof is held invalid or
39 unconstitutional, the remainder of the law or the provision not otherwise affected shall
40 remain valid and subsisting

41 **SEC. 4.** *Effectivity Clause.* This Act shall take effect fifteen (15) days from its
42 publication in the Official Gazette or at least two newspapers of national circulation.

43 *Approved,*