

SENATE

'16 AUG -1 A11 :32

S. No. 931

Introduced by Senator Ralph G. Recto

AN ACT
REDUCING THE CIVIL PENALTIES AND INTEREST IMPOSED ON THE FAILURE TO FILE TAX RETURNS AND PAY THE TAX DUE THEREON, AMENDING FOR THIS PURPOSE SECTIONS 248 AND 249(A) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Explanatory Note

Jurisprudence is replete with cases stating that taxes are the lifeblood of the government, without which, it cannot subsist, and therefore should be collected without unnecessary hindrance.

The imposition of surcharge and interest on the failure to file tax returns and pay the correct taxes due thereon serves as a deterrent on the taxpayers from becoming negligent in their duty and obligations to pay taxes.

Tax laws imposing penalties for delinquencies are clearly intended to hasten tax payments or to punish evasion or neglect of duty in respect thereof. If delays in tax payments are to be condoned for light reasons, the law imposing penalties for delinquencies would be rendered nugatory, and the maintenance of the government and its multifarious activities would be as precarious as taxpayers are willing or unwilling to pay their obligations to the state on time. Imperatives of public welfare will not approve of this result.¹

However, the surcharge of 25% or 50%, and interest of 20% per annum may not be reasonable in the present situation considering, among others, the effect on the same of the inflation rate. These rates may now be considered as confiscatory that may result in the deprivation of the taxpayers' right to property.

The surcharge rates of 25% or 50% are too restrictive, especially to small businessmen, entrepreneurs and enterprises that might discourage those operating in the underground economy to legitimize their business operations. With our complicated tax laws and regulations, taxpayers who cannot afford to seek professional assistance, would find it very difficult to achieve 100% compliance with the requirements of the law for the payment of taxes.

The interest rate of 20% is too high considering the prevailing average interest rate of only 3%. Even the legal interest rate of 12% for loans and credit agreements was reduced to 6% effective July 1, 2013 through BSP Circular No. 799.

This proposed measure seeks to reduce the surcharge and interest rates to a reasonable level of 12% or 25%, and 6%, respectively, to encourage voluntary compliance by the taxpayers to pay the correct taxes.

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


RALPH G. RECTO

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

1 **SECTION 1.** Section 248 of the National Internal Revenue Code of 1997, as amended is
2 hereby further amended to read as follows:

3 “Sec. 248. *Civil Penalties.* –

4 “(A) There shall be imposed, in addition to the tax required to be paid, a
5 penalty equivalent to [twenty-five percent (25%)] **TWELVE PERCENT (12%)**
6 of the amount due, in the following cases:

7 “(1) x x x

8 “(2) x x x

9 “(3) x x x

10 “(4) x x x

11 “(B) In case of willful neglect to file the return within the period
12 prescribed by this Code or by rules and regulations, or in case a false or
13 fraudulent return is willfully made, the penalty to be imposed shall be
14 [fifty percent (50%)] **TWENTY-FIVE PERCENT (25%)** of the tax or of
15 the deficiency tax, in case any payment has been made on the basis of
16 such return before the discovery of the falsity or fraud: *Provided*, That a
17 substantial underdeclaration of taxable sales, receipts or income, or a
18 substantial overstatement of deductions, as determined by the
19 Commissioner pursuant to the rules and regulations to be promulgated by
20 the Secretary of Finance, shall constitute *prima facie* evidence of a false or
21 fraudulent return: *Provided, further*, That failure to report sales, receipts or
22 income in an amount exceeding thirty percent (30%) of that declared per
23 return, and a claim of deductions in an amount exceeding thirty percent
24 (30%) of actual deductions, shall render the taxpayer liable for substantial

1 underdeclaration of sales, receipts or income or for overstatement of
2 deductions, as mentioned herein.”

3 **SEC. 2.** Section 249 (A) of the National Internal Revenue Code of 1997, as amended is
4 hereby further amended to read as follows:

5 “Sec. 249. *Interest.* –

6 “(A) *In General.* – There shall be assessed and collected on any unpaid
7 amount of tax, interest at the rate of [twenty percent (20%)] **SIX**
8 **PERCENT (6%)** per annum, or such higher rate as may be
9 prescribed by rules and regulations, from the date prescribed for payment
10 until the amount is fully paid.”

11 **SEC. 3. *Implementing Rules and Regulations.*** – The Secretary of Finance shall, upon the
12 recommendation of the Commissioner of Internal Revenue, promulgate not later than thirty (30)
13 days upon the effectivity of this Act the necessary rules and regulations for its effective
14 implementation.

15 **SEC. 4. *Repealing Clause.*** - All other laws, decrees, orders, issuances and rules and
16 regulations or parts thereof inconsistent with this Act are hereby amended or repealed
17 accordingly.

18 **SEC. 5. *Effectivity.*** - This Act shall take effect fifteen (15) days after its publication
19 either in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,