

Republic of the Philippines }
FOURTEENTH CONGRESS }
First Regular Session }

7 AUG 23 2012

SENATE

RECEIVED BY:

Bill No. 1485

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

Presently, the Court of Tax Appeals is composed of six (6) justices sitting En Banc or in two (2) divisions consisting of three (3) justices each pursuant to Republic Act No. 9282, entitled "AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES," enacted by the Twelfth Congress and became effective on April 23, 2004.

As indicated in the title of Republic Act No. 9282, the jurisdiction of the Court of Tax Appeals was expanded, defined in Section 7 thereof to include, *inter alia*, the following:

1. Tax Collection cases;
2. Criminal offenses under the National Internal Revenue Code and Tariff and Customs Code, including the civil action for recovery of taxes and duties;
3. Review of decisions rendered by the Regional Trial Courts in Local Tax Cases;
4. CTA En Banc review of decision of a Division of the Court;
5. CTA En Banc review of decisions of the Central Board of Assessment Appeals involving real property cases.

As a direct consequence of the expansion of its jurisdiction, the number of cases filed with the Court has risen sharply. In fact, a total of 179 new cases have already been filed from January up to June of the current year or within a sixth month period only. The figure shows a very significant increase in the number of new cases filed when compared with the number of filed cases in the previous years, to wit: 291 for 2006; 407 for 2005; 357 for 2004; 265 for 2003; 212 for 2002; 158 for 2001 and 228 for the year 2000.

Concomitant with the deluge of new cases filed will be the increase in the workload on the CTA. It is rather certain that the Tax Court, with its limited manpower and resources, will be unable to cope with its overwhelming caseload. This unenviable circumstance defeats the laudable objectives of R.A. No. 9282, more particularly, the swift disposition of tax cases having in mind that taxes are the *lifblood* of the government.

To provide an appropriate remedial measure and for a more efficient and capable Tax Court, this bill seeks to amend and revise Republic Act No. 1125, as amended by Republic Act No. 9282, by adding a Third Division to the Court of Tax Appeals and increasing its membership and manpower complement as well. Consequently, the Court of Tax Appeals shall have a total of nine (9) members

composed of a Presiding Justice and eight Associate Justices sitting En Banc or in three (3) Divisions with three (3) members each.

The benefit that will be derived from the increase in the membership of the Courts is not limited to a faster administration of justice but it would likewise ensure the independence of the Court of Tax Appeals affording a fair and just disposition of each and every case before it. With the present En Banc membership of the Court of Tax Appeals consisting only of six (6) justices, it is very difficult for a losing party to a case tried before a CTA Division to obtain a reversal when elevated to the CTA En Banc. A decision of a Division is more likely to be affirmed in an appeal with the Court En Banc since the members of the Division, whose decision is the subject of the appeal, constitutes fifty percent (50%) already of the entire membership of the Court En Banc. Only a single vote is necessary in order to uphold or affirm the Division's decision whereas a reversal will require the affirmative votes of at least four (4) members, possibly the votes of the three (3) members who are not members of the Division that rendered the judgment plus at least one (1) member of the Division that rendered the questioned decision. This is indeed quite a tall order for the appellant.

Secondly, with the present membership of the Court En Banc consisting of six (6) members, there is a distinct possibility of having a tie or a deadlock (3-3) in the resolution of an issue.

With the proposed addition of three (3) members, the Court En Banc will have a total of nine (9) members, thereby obviating the possibility of a tie or deadlock in the resolution of an issue. Moreover, the appellant will have a better forum composed of six (6) members who did not participate in the rendition of the appealed decision and the three (3) members who took part therein. This would ensure a greater protection for the rights of the aggrieved party.

It may also be worthwhile to mention that the original authors of the law, Republic Act No. 9282, had introduced in House Bill Nos. 854, 2862 and 5044, authored by Representatives Aleta C. Suarez, Marcelino C. Libanan and Exequiel B. Javier, respectively, a three (3) Division composition of the Court of Tax Appeals. This version of the House in the last Congress was likewise endorsed favorably by the Supreme Court. It was in the Senate that the two (2) Division version was introduced primarily for reason of cost-saving, but for reasons stated above, the need to create a new Division is indispensable.

Moreover, House Bill No. 4514 introduced by the Honorable Exequiel B. Javier during the First Regular Session of the Thirteenth Congress, which embodied the full content of this proposed House Bill, was approved by the Committee on Justice and Committee on Appropriations and reached second reading but unfortunately was not passed because of time constraints due to the May 14, 2007 elections.

In view of the foregoing, the early approval of this bill is recommended.



FRANCIS G. ESCUDERO

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7 AUG 23 P1:52

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Introduced by **Senator FRANCIS G. ESCUDERO**

AN ACT

FURTHER EXPANDING THE ORGANIZATIONAL STRUCTURE OF THE COURT OF TAX APPEALS, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

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

SECTION 1. Section 1 of Republic Act No. 1125, as amended, is hereby further amended to read as follows:

"SECTION 1. Court; Justices; Qualifications; Salary; Tenure. - There is hereby created a Court of Tax Appeals (CTA) which shall be of the same level as the Court of Appeals, possessing all the inherent powers of a Court of Justice, and shall consist of a Presiding Justice and [five (5)] **EIGHT (8)** Associate Justices. The incumbent Presiding Judge and Associate Judges shall continue in office and bear the new titles of *Presiding Justice* and *Associate Justices*. The Presiding Justice and the **TWO** most Senior Associate [Justice] **Justices** shall serve as chairmen of the [two (2)] **THREE (3)** Divisions. The additional [three (3)] **SIX (6)** Justices and succeeding members of the Court shall be appointed by the President upon nomination by the Judicial and Bar Council. The Presiding Justice shall be so designated in his appointment, and the Associate Justices shall have precedence according to the date of their respective appointments, or when the appointments of two (2) or more of them shall bear the same date, according to the order in which their appointments were issued by the President. They shall have the same qualifications, rank, category, salary, emoluments and other privileges, be subject to the same inhibitions and disqualifications, and enjoy the same retirements and other benefits as those provided for under existing laws for the Presiding Justice and Associate Justices of the Court of Appeals.

"Whenever the salaries of the Presiding Justice and the Associate Justices of the Court of Appeals are increased, such increases in salaries shall be deemed correspondingly extended to and enjoyed by the Presiding Justice and Associate Justices of the CTA."

"The Presiding Justice and Associate Justices shall hold office during good behavior, until they reach the age of seventy (70), or become incapacitated to discharge the duties of their office, unless sooner removed for

the same causes and in the same manner provided by law for members of the judiciary of equivalent rank.”

SEC. 2. Section 2 of the same Act is hereby amended to read as follows:

“SEC. 2. *Sitting En Banc or Division; Quorum; Proceedings.* – The CTA may sit en banc or in [two (2)] **THREE (3)** Divisions, each Division consisting of three (3) Justices.

“[Four (4)] **FIVE (5)** Justices shall constitute a quorum for sessions en banc and two (2) Justices for sessions of a Division: Provided, That when the required quorum cannot be constituted due to any vacancy, disqualification, inhibition, disability, or any other lawful cause, the Presiding Justice shall designate any Justice of other Divisions of the Court to sit temporarily therein.

“The affirmative votes of [four (4)] **FIVE (5)** members of the **COURT EN BANC SHALL BE NECESSARY TO REVERSE A DECISION OF A DIVISION BUT A SIMPLE MAJORITY OF THE JUSTICES PRESENT NECESSARY TO PROMULGATE A RESOLUTION OR DECISION IN ALL OTHER CASES** or two (2) members of a Division, shall be necessary for the rendition of a decision or resolution **IN THE DIVISION LEVEL.**”

SEC. 3. *Appropriations.* – **The amount of Twenty Million Pesos (P20,000,000.00) necessary to carry out the provisions of this Act shall be appropriated immediately to be generated from whatever source that are available in the national treasury, based on a special supplemental budget to be submitted to DBM which shall not exceed the herein appropriation.**

SEC. 4. *Repealing Clause.* – All laws, executive orders, executive issuances or letter of instructions, or any part thereof, inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SEC. 5. *Separability Clause.* – If for any reason, any section or provision of this Act shall be declared unconstitutional or invalid, the other parts thereof not affected thereby shall remain valid.

SEC. 6. *Effectivity Clause.* – This Act shall take effect after fifteen (15) days following its publication in at least two (2) newspapers of general circulation.

Approved,