

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

6 SEP 25 2:15 PM

SENATE

RECEIVED BY: AM

Senate Bill No. 2470

Introduced by Senator Franklin M. Drilon

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 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.

Republic Act No. 9282 expanded the jurisdiction of the Court of Tax Appeals to include the following:

1. Criminal offenses under the National Internal Revenue Code and Tariff and Customs Code;
2. Civil action for collection and recovery of taxes and duties which has attained finality;
3. Review of decisions rendered by the Regional Trial Courts in local tax cases;
4. CTA *En Banc* review of decisions of the Central Board of Assessment Appeals involving real property cases; and
5. CTA *En Banc* review of decision of a Division of the Court;

The original jurisdiction of this Court under Republic Act No. 1125 over decisions or inaction of the Commissioner of Internal Revenue and the Commissioner of Customs remains, as well as jurisdiction over decisions of the Secretary of Finance, the Secretary of Trade and Industry, and Secretary of Agriculture, over customs matters, dumping, countervailing and the imposition of safeguard duties under Republic Act No. 8800, respectively.

As a direct consequence of the expansion of its jurisdiction, the number of cases filed with the Court has risen sharply. For the year 2005, a total of 408 cases were filed compared with the number of filed cases in the previous years, to wit: 262 for 2003; 209 for 2002; 158 for 2001; and 228 for the year 2000.

Concomitant with the deluge of new cases filed is 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 lifeblood 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 increase in the number of Divisions is necessitated by the increase in the caseload of the Court of Tax Appeals. More cases can be heard simultaneously by the three (3) Divisions instead of the present two (2) Divisions. The present two (2) Divisions of Court of Tax Appeals are barely able to cope with their current caseload.

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.

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


FRANKLIN M. DRILON
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

6 SEP 25 P1:59

SENATE

RECEIVED BY: 

Senate Bill No. 2470

Introduced by Senator Franklin M. Drilon

**AN ACT ENLARGING 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"

SECTION 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 (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 SHALL BE NECESSARY TO PROMULGATE A DECISION IN ALL OTHER CASES** or two (2) members of a Division, [as the case may be] shall be necessary for rendition of a decision or resolution **IN THE DIVISION LEVEL.**"

SECTION 3. Appropriations. – The amount of Fifty Million Pesos (P50,000,000.00) 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.

SECTION 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.

SECTION 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.

SECTION 6. Effectivity Clause - This Act shall take effect after fifteen (15) days following its publication in at least (2) Newspapers of general circulation.

Approved,