

FOURTEENTH CONGRESS)
OF THE REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

8 SEP 16 2014

SENATE

RECEIVED BY

P. S. Res. No. 645

INTRODUCED BY THE HONORABLE MAR ROXAS

A RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE COLLECTION OF ADVANCE PAYMENT OF THE 12% VALUE ADDED TAX (VAT) FROM SUGAR COOPERATIVES BY THE BUREAU OF INTERNAL REVENUE NOTWITHSTANDING THEIR TAX EXEMPT STATUS UNDER SECTIONS 61 AND 62 OF REPUBLIC ACT NO. 6938, OTHERWISE KNOWN AS THE "COOPERATIVE CODE OF THE PHILIPPINES," AND SECTION 109(R) OF REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE "NATIONAL INTERNAL REVENUE CODE OF 1997," WITH THE END IN VIEW OF DETERMINING APPROPRIATE REMEDIAL MEASURES AND FOR OTHER PURPOSES.

WHEREAS, Section 15 of Article XII of the 1987 Constitution provides that Congress shall create an agency to promote the viability and growth of cooperatives as instruments for social justice and economic development;

WHEREAS, Section 2 of Republic Act No. 6938, otherwise known as the *Cooperative Code of the Philippines*, provides that it is the declared policy of the State to foster the creation and growth of cooperatives as a practical vehicle for promoting self-reliance and harnessing people power towards the attainment of economic development and social justice and accordingly, the State shall create an atmosphere that is conducive to the growth and development of these cooperatives;

WHEREAS, toward the end of fostering the growth and success of cooperatives, the Government and all its branches, subdivisions, instrumentalities and agencies shall ensure the provision of technical guidance, financial assistance and other services to enable said cooperatives to develop into viable and responsive economic enterprises and thereby bring about a strong cooperative movement that is free from any conditions that might infringe upon the autonomy or organizational integrity of cooperatives;

WHEREAS, one of the means by which financial assistance can be provided to cooperatives is through the grant of tax exemptions to them under Sections 61 and 62 of Republic Act No. 6938;

WHEREAS, in addition to the tax exemptions granted under the *Cooperative Code*, Sec. 109(r) of Republic Act No. 8424, otherwise known as the *National Internal Revenue Code of 1997*, expressly exempts from VAT the sales of agricultural cooperatives duly registered with the Cooperative Development Authority to their members as well as sale of their produce, whether in its original state or processed form, to non-members;

WHEREAS, notwithstanding the exemptions granted by the *Cooperative Code* and the *National Internal Revenue Code*, the Bureau of Internal Revenue has still been collecting 12% VAT from sugar cooperatives based on a 60%-40% ratio where 60% of the produce of sugar cooperatives is subjected to an advance payment of VAT;

WHEREAS, the advance payment of VAT being unilaterally required by the BIR from sugar cooperatives is allegedly based on the BIR's own interpretation of Sections 6 and 244, in relation to Sections 106, 109, 110, and 110 (B) (1) of the National Internal Revenue Code that formed as basis for the BIR to promulgate Revenue Regulation Nos. 29-2002, 2-2004, and 4-2004, thereby giving authority to the BIR to collect VAT from sugar cooperatives;

WHEREAS, there is nothing in the aforesaid provisions of the *National Internal Revenue Code* which categorically authorizes the BIR to collect advance payment of VAT on the sale of sugar cooperatives, which, therefore, places them in direct conflict with the aforesaid revenue regulations;

WHEREAS, the collection of advance payment of VAT from sugar cooperatives constitute an unnecessary and undue burden on them and only tend to add injury to an already wounded and hurting sugar industry that has been affected by possible sugar smuggling as can be seen from the low sugar inventory and prices;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the appropriate Senate Committees conduct an inquiry, in aid of legislation, on the collection of advance payment of the 12% Value Added Tax from sugar cooperatives by the Bureau of Internal Revenue notwithstanding their tax exempt status under Republic Act No. 6938, otherwise known as the "Cooperative Code of the Philippines," and Republic Act No. 8424, otherwise known as the "National Internal Revenue Code of 1997," with the end in view of determining appropriate remedial measures and for other purposes.

Adopted,


M A R ROXAS
Senator