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REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE

P.S. Res. No. 474

RECEIVED

Introduced by Senator ANTONIO "SONNY" F. TRILLANES IV

RESOLUTION

DIRECTING THE COMMITTEE ON FINANCE AND OTHER APPROPRIATE COMMITTEES OF THE SENATE, TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO REVIEW THE EXISTING RULES AND REGULATIONS AS WELL AS THE PRACTICES AND PROCEDURES OF THE BUREAU OF INTERNAL REVENUE IN VIEW OF THE COMPLAINTS AGAINST THE BUREAU ON ITS FAILURE TO ACT ON PENDING TAX REFUND CLAIMS

WHEREAS, Section 23 of Republic Act (RA) No. 8424 otherwise known as the National Internal Revenue Code of 1997 provides for the General Principles of Income Taxation in the Philippines, as follows:

- "(a) A citizen of the Philippines residing therein is taxable on all income derived from sources within and without the Philippines;*
- (b) A nonresident citizen is taxable only on income derived from sources within the Philippines;*
- (c) An individual citizen of the Philippines who is working and deriving income from abroad as an overseas contract worker is taxable only on income derived from sources within the Philippines: Provided, That a seaman who is a citizen of the Philippines and who receives compensation for services rendered abroad as a member of the complement of a vessel engaged exclusively in international trade shall be treated as an overseas contract worker;*
- (d) An alien individual, whether a resident or not of the Philippines, is taxable only on income derived from sources within the Philippines;*
- (e) A domestic corporation is taxable on all income derived from sources within and without the Philippines; and*
- (f) A foreign corporation, whether engaged or not in trade or business in the Philippines, is taxable only on income derived from sources within the Philippines";*

WHEREAS, Section 79(C)(2) of the same mandates that:

"any excess of the taxes withheld over the tax due from the taxpayer shall be returned or credited within three (3) months from the fifteenth (15th) day of April. Refunds or credits made after such time shall earn interest at the rate of six percent (6%) per annum, starting after the lapse of the three-month period to the date the refund of credit is made";

WHEREAS, under item (8) (1) of the Revenue Memorandum Order No. 20-2008 issued by the Bureau of Internal Revenue dated 23 May 2008, the Revenue District Offices shall issue Letters of Authority (LAs) or Tax Verification Notices (TVNs) for claims for issuance of tax credit certificate and refund, including claims for tax credit/refund on erroneous/double payment of taxes;

WHEREAS, Section 204 (C) of R.A. No. 8424 states that the Commissioner of Internal Revenue is empowered to credit or refund taxes erroneously or illegally received or penalties imposed without authority, provided that the taxpayer files a written claim for credit or refund within two (2) years after the payment of the tax or penalty;

WHEREAS, Section 230 of the same law, a refund check or warrant issued in accordance with the pertinent provisions of this Code, which shall remain unclaimed or uncashed within five (5) years from the date the said warrant or check was mailed or delivered, shall be forfeited in favor of the Government and the amount thereof shall revert to the general fund;

WHEREAS, present condition, however, runs counter to the aforementioned regulations as there is a widespread complaint among the military ranks as well as in the civilian sector on the failure of the BIR to act on pending tax refund applications and cases;

WHEREAS, the complaints have been prompted because of the inordinate delay of processing of tax refund applications;

WHEREAS, this fact perpetually affects the morale of the Filipino soldiers and civilians in general because they feel that they are being “cheated” and short-changed by the Government when it comes to money the Government actually owes them;

WHEREAS, in an online article published by PhilStar on 21 December 2010, writer Allan Q. Uy stated:

“Despite the taxpayer’s standing to claim a refund, it is prudent that the taxpayer should weigh the pros and cons of actually filing a claim especially because refund claims are not in the government’s priority.

First of all, it may take several months before a revenue officer is assigned to process the claim, and once the revenue officer makes a recommendation, it will go through a review process that can be lengthy.

Secondly, the process of claiming a refund involves a tedious documentation process and the BIR will always check if the documentation complies with the requirements.

Lastly and most importantly, the BIR will conduct an audit on all internal revenue taxes of the taxpayer, not only on the particular tax for which a refund has been claimed. This audit of all internal revenue taxes, more often than not, leads to assessment of alleged deficiency taxes. The taxpayer may then be required to pay the deficiency taxes first before receiving any tax refund or tax credit” ;¹

WHEREAS, further, the BIR usually issue Tax Credit Certificates (TCCs) rather than cash to claimants entitled for refund;²

WHEREAS, in a resolution dated 15 September 2008 on the case of BIR vs. Fortune Tobacco, the Supreme Court stated that if the state expects its taxpayers to observe fairness and honesty in paying their taxes, it must hold itself against the same standard in refunding excess (or

¹ Allan Q. Uy, “Who can file a claim for tax refund,”

<http://www.philstar.com/Article.aspx?articleId=641282&publicationSubCategoryId=> (accessed 4 May 2011)

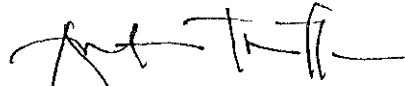
² *ibid.*

erroneous) payments of such taxes. It should not unjustly enrich itself at the expense of taxpayers;³

WHEREAS, in light of all these actualities, there is an apparent need to review the existing rules and regulations as well as the practices and procedures of the BIR with the end in view of coming up with proposed legislation to address the apparent gaps in the current state of the law and relevant rules, regulations as well as practices and procedures of the BIR in processing tax refund claims;

NOW, THEREFORE be it resolved, as it is hereby resolved to direct the Committee on Finance and other pertinent committees of the Senate, to conduct an inquiry, in aid of legislation, on the alleged complaints against the failure of the BIR to expeditiously act on pending tax refund claims with the end in view of coming up with proposed legislation to address the apparent gaps in the current state of the law and relevant rules and regulations as well as practices and procedures of the BIR in processing tax refund claims.

ADOPTED,



ANTONIO "SONNY" F. TRILLANES IV

³ Rey E. Requejo, "Lucio Tan wins P1-b tax overpayment case," <http://www.manilastandardtoday.com/2008/july/22/news1.htm> (accessed 4 May 2011).