



## HOUSE OF REPRESENTATIVES

**H. No. 6899**

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BY REPRESENTATIVES NOGRALES, JAVIER, CODILLA, TEODORO, GONZALES  
(N.) AND DE GUZMAN, PER COMMITTEE REPORT NO. 2420

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AN ACT AMENDING SECTIONS 6(F), 71 AND 270 OF THE NATIONAL  
INTERNAL REVENUE CODE OF 1997, AS AMENDED,  
ALLOWING THE EXCHANGE OF INFORMATION BY THE  
BUREAU OF INTERNAL REVENUE ON TAX MATTERS  
PURSUANT TO THE INTERNATIONALLY AGREED TAX  
STANDARDS AND FOR OTHER PURPOSES

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

1           SECTION 1. *Title.* – This Act shall be known as the “Exchange of  
2 Information on Tax Matters Act of 2009”.

3           SEC. 2. *Declaration of Policy.* – It is the declared policy of the State to  
4 promote and pursue a tax environment that contributes in sustaining a  
5 favorable international investment climate and instills confidence in the  
6 adequacy and capacity of the country’s tax administration to comply with its  
7 commitments under existing tax conventions or agreements.

8           In pursuance of this declared policy, the government shall comply with  
9 or commit to the internationally agreed tax standard required for the exchange  
10 of tax information with its tax treaty partners to help combat international tax

1 evasion and avoidance and to help address tax concerns that affect  
 2 international trade and investment. The government shall likewise adopt  
 3 measures and procedures to enhance cooperation with other countries in the  
 4 efficient collection of taxes, consistent with the international understanding to  
 5 ensure the payment of taxes due the respective taxing jurisdictions of the treaty  
 6 partners.

7       SEC. 3. *Authority of the Commissioner of Internal Revenue to Inquire*  
 8 *into Bank Deposit Accounts and Related Information Held by Financial*  
 9 *Institutions.* – Section 6(F) of Republic Act No. 8424, as amended, otherwise  
 10 known as the National Internal Revenue Code of 1997, as amended, is hereby  
 11 further amended to read as follows:

12               “SEC. 6. *Power of the Commissioner to Make*  
 13 *Assessments and Prescribe Additional Requirements for Tax*  
 14 *Administration and Enforcement.* –

15               “x x x

16               “(F) *Authority of the Commissioner to Inquire into Bank*  
 17 *Deposit Accounts AND OTHER RELATED INFORMATION HELD BY*  
 18 *FINANCIAL INSTITUTIONS.* – Notwithstanding any contrary  
 19 provision of Republic Act No. 1405 and other general or special  
 20 laws, the Commissioner is hereby authorized to inquire into the  
 21 bank deposits AND OTHER RELATED INFORMATION HELD BY  
 22 FINANCIAL INSTITUTIONS of:

23               “(1) a decedent to determine his gross estate; [and]

24               “(2) any taxpayer who has filed an application for  
 25 compromise of his tax liability under Sec. 204(A)(2) of this Code  
 26 by reason of financial incapacity to pay his tax liability[.]; AND

27               “(3) A SPECIFIC TAXPAYER OR TAXPAYERS SUBJECT OF  
 28 A REQUEST FOR THE SUPPLY OF TAX INFORMATION FROM A

1 FOREIGN AUTHORITY PURSUANT TO A TAX CONVENTION OR  
2 AGREEMENT TO WHICH THE PHILIPPINES IS A SIGNATORY.

3 "In case a taxpayer files an application to compromise the  
4 payment of his tax liabilities on his claim that his financial  
5 position demonstrates a clear inability to pay the tax assessed, his  
6 application shall not be considered unless and until he waives in  
7 writing his privilege under Republic Act No. 1405 or under other  
8 general or special laws, and such waiver shall constitute the  
9 authority of the Commissioner to inquire into the bank deposits  
10 of the taxpayer.

11 "IN CASE OF A REQUEST FROM A FOREIGN TAX  
12 AUTHORITY FOR TAX INFORMATION HELD BY BANKS AND  
13 FINANCIAL INSTITUTIONS, THE EXCHANGE OF INFORMATION  
14 SHALL BE DONE IN A SECURE MANNER TO ENSURE  
15 CONFIDENTIALITY THEREOF UNDER SUCH RULES AND  
16 REGULATIONS AS MAY BE PROMULGATED BY THE SECRETARY  
17 OF FINANCE, UPON RECOMMENDATION OF THE  
18 COMMISSIONER.

19 "THE COMMISSIONER SHALL PROVIDE THE TAX  
20 INFORMATION OBTAINED FROM BANKS AND FINANCIAL  
21 INSTITUTIONS PURSUANT TO A CONVENTION OR AGREEMENT  
22 UPON REQUEST OF THE FOREIGN TAX AUTHORITY WHEN SUCH  
23 REQUESTING FOREIGN TAX AUTHORITY HAS PROVIDED THE  
24 FOLLOWING INFORMATION TO DEMONSTRATE THE  
25 FORESEEABLE RELEVANCE OF THE INFORMATION TO THE  
26 REQUEST:

27 "(1) THE IDENTITY OF THE PERSON UNDER  
28 EXAMINATION OR INVESTIGATION;

29 "(2) A STATEMENT OF THE INFORMATION SOUGHT  
30 INCLUDING ITS NATURE AND THE FORM IN WHICH THE SAID

1 FOREIGN TAX AUTHORITY WISHES TO RECEIVE THE  
2 INFORMATION FROM THE COMMISSIONER;

3 “(3) THE TAX PURPOSE FOR WHICH THE INFORMATION  
4 IS SOUGHT;

5 “(4) GROUNDS FOR BELIEVING THAT THE  
6 INFORMATION REQUESTED IS HELD IN THE PHILIPPINES OR IS  
7 IN THE POSSESSION OR CONTROL OF A PERSON WITHIN THE  
8 JURISDICTION OF THE PHILIPPINES;

9 “(5) TO THE EXTENT KNOWN, THE NAME AND ADDRESS  
10 OF ANY PERSON BELIEVED TO BE IN POSSESSION OF THE  
11 REQUESTED INFORMATION;

12 “(6) A STATEMENT THAT THE REQUEST IS IN  
13 CONFORMITY WITH THE LAW AND ADMINISTRATIVE  
14 PRACTICES OF THE SAID FOREIGN TAX AUTHORITY, THAT IF  
15 THE REQUESTED INFORMATION WAS WITHIN THE  
16 JURISDICTION OF THE SAID FOREIGN TAX AUTHORITY THEN IT  
17 WOULD BE ABLE TO OBTAIN THE INFORMATION UNDER ITS  
18 LAWS OR IN THE NORMAL COURSE OF ADMINISTRATIVE  
19 PRACTICE AND THAT IT IS IN CONFORMITY WITH A  
20 CONVENTION OR INTERNATIONAL AGREEMENT; AND

21 “(7) A STATEMENT THAT THE REQUESTING FOREIGN  
22 TAX AUTHORITY HAS PURSUED ALL MEANS AVAILABLE IN ITS  
23 OWN TERRITORY TO OBTAIN THE INFORMATION, EXCEPT  
24 THOSE THAT WOULD GIVE RISE TO DISPROPORTIONATE  
25 DIFFICULTIES.

26 “THE COMMISSIONER SHALL FORWARD THE  
27 INFORMATION AS PROMPTLY AS POSSIBLE TO THE  
28 REQUESTING FOREIGN TAX AUTHORITY. TO ENSURE A  
29 PROMPT RESPONSE, THE COMMISSIONER SHALL CONFIRM  
30 RECEIPT OF A REQUEST IN WRITING TO THE REQUESTING TAX  
31 AUTHORITY AND SHALL NOTIFY THE LATTER OF DEFICIENCIES

1           IN THE REQUEST, IF ANY, WITHIN SIXTY (60) DAYS FROM THE  
2           RECEIPT OF THE REQUEST.

3           **“IF THE COMMISSIONER IS UNABLE TO OBTAIN AND**  
4           **PROVIDE THE INFORMATION WITHIN NINETY (90) DAYS FROM**  
5           **RECEIPT OF THE REQUEST, DUE TO OBSTACLES ENCOUNTERED**  
6           **IN FURNISHING THE INFORMATION OR WHEN THE BANK OR**  
7           **FINANCIAL INSTITUTION REFUSES TO FURNISH THE**  
8           **INFORMATION, HE SHALL IMMEDIATELY INFORM THE**  
9           **REQUESTING TAX AUTHORITY, EXPLAINING THE NATURE OF**  
10          **THE OBSTACLES ENCOUNTERED OR THE REASONS FOR**  
11          **REFUSAL.**

12          **“THE TERM “FOREIGN TAX AUTHORITY”, AS USED**  
13          **HEREIN, SHALL REFER TO THE TAX AUTHORITY OR TAX**  
14          **ADMINISTRATION OF THE REQUESTING STATE UNDER THE TAX**  
15          **TREATY OR CONVENTION TO WHICH THE PHILIPPINES IS A**  
16          **SIGNATORY.”**

17          SEC. 4. *Allowing a Foreign Tax Authority to Examine Income Tax*  
18          *Returns of Taxpayers in the Philippines.* – Section 71 of Republic Act No.  
19          8424, as amended, otherwise known as the National Internal Revenue Code of  
20          1997, as amended, is hereby further amended to read as follows:

21          **“SEC. 71. *Disposition of Income Tax Returns,***  
22          ***Publication of Lists of Taxpayers and Filers.*** – After the  
23          assessment shall have been made, as provided in this Title, the  
24          returns, together with any corrections thereof which may have  
25          been made by the Commissioner, shall be filed in the Office of  
26          the Commissioner and shall constitute public records and be  
27          open to inspection as such upon the order of the President of the  
28          Philippines, under rules and regulations to be prescribed by the

1 Secretary of Finance, upon recommendation of the  
2 Commissioner.

3 "The Commissioner may, in each year, cause to be  
4 prepared and published in any newspaper the lists containing the  
5 names and addresses of persons who have filed income tax  
6 returns.

7 **"THE INCOME TAX RETURN OF A SPECIFIC TAXPAYER**  
8 **WHO IS THE SUBJECT OF A REQUEST FOR EXCHANGE OF**  
9 **INFORMATION BY A FOREIGN TAX AUTHORITY PURSUANT TO A**  
10 **CONVENTION OR AGREEMENT TO WHICH THE PHILIPPINES IS A**  
11 **SIGNATORY, SHALL BE OPEN TO INSPECTION UPON THE ORDER**  
12 **OF THE PRESIDENT OF THE PHILIPPINES, UNDER RULES AND**  
13 **REGULATIONS AS MAY BE PRESCRIBED BY THE SECRETARY OF**  
14 **FINANCE, UPON RECOMMENDATION OF THE COMMISSIONER."**

15 SEC. 5. *Authority of the Commissioner of Internal Revenue to*  
16 *Supply Information to a Foreign Tax Authority which is at his Disposal.* –  
17 Section 270 of Republic Act No. 8424, as amended, otherwise known as the  
18 National Internal Revenue Code of 1997, is hereby further amended to read as  
19 follows:

20 "SEC. 270. *Unlawful Divulgence of [Trade Secrets]*  
21 **INFORMATION.** – Except as provided in Sections 6(F) AND 71 of  
22 this Code and Section 26 of Republic Act No. 6388, any officer  
23 or employee of the Bureau of Internal Revenue who divulges to  
24 any person or makes known in any other manner than may be  
25 provided by law information regarding the business, income, or  
26 estate of any taxpayer, the secrets, operation, style or work, or  
27 apparatus of any manufacturer or producer, or confidential  
28 information regarding the business of any taxpayer, knowledge

1 of which was acquired by him in the discharge of his official  
2 duties, shall, upon conviction for each act or omission, be  
3 punished by a fine of not less than Fifty thousand pesos  
4 (P50,000) but not more than One hundred thousand pesos  
5 (P100,000), or suffer imprisonment of not less than two (2) years  
6 but not more than five (5) years, or both.

7 **“ANY OFFICER OR EMPLOYEE OF THE BUREAU OF**  
8 **INTERNAL REVENUE WHO DIVULGES OR MAKES KNOWN IN**  
9 **ANY OTHER MANNER TO ANY PERSON OTHER THAN THE**  
10 **REQUESTING FOREIGN TAX AUTHORITY INFORMATION**  
11 **OBTAINED FROM BANKS AND FINANCIAL INSTITUTIONS**  
12 **PURSUANT TO SECTION 6(F), KNOWLEDGE OR INFORMATION**  
13 **ACQUIRED BY HIM IN THE DISCHARGE OF HIS OFFICIAL DUTIES,**  
14 **SHALL, UPON CONVICTION, BE PUNISHED BY A FINE OF NOT**  
15 **LESS THAN FIFTY THOUSAND PESOS (P50,000) BUT NOT MORE**  
16 **THAN ONE HUNDRED THOUSAND PESOS (P100,000), OR SUFFER**  
17 **IMPRISONMENT OF NOT LESS THAN TWO (2) YEARS BUT NOT**  
18 **MORE THAN FIVE (5) YEARS, OR BOTH.”**

19 *SEC. 6. Willful Refusal to Supply Information.* – Any officer, owner,  
20 agent, manager, director or officer-in-charge of any bank or financial  
21 institution within the purview of this Act who, having been required in writing  
22 by the Commissioner, willfully refuses to supply the required information shall  
23 be punished by a fine of not less than Fifty thousand pesos (P50,000) but not  
24 more than One hundred thousand pesos (P100,000), or suffer imprisonment of  
25 not less than two (2) years but not more than five (5) years, or both.

26 *SEC. 7. Obligation to Maintain Confidentiality of Information*  
27 *Received.* - Any information received by a foreign tax authority from the  
28 Bureau of Internal Revenue pursuant to a tax convention or agreement shall be  
29 treated by the authority as absolutely confidential in nature and shall not be

1 used for any other purpose, in the same manner as information obtained by the  
2 latter under its laws and shall be disclosed only to persons or authorities,  
3 including courts and administrative bodies, involved in the assessment or  
4 collection of, the enforcement or prosecution in respect of, or the  
5 determination of appeals in relation to, the taxes covered by such conventions  
6 or agreements.

7       SEC. 8. *Notice to Taxpayers.* – A taxpayer shall be duly notified in  
8 writing by the Commissioner that a foreign tax authority is requesting for  
9 exchange of information on his bank deposits and other information held by  
10 financial institutions pursuant to a tax convention or agreement to which the  
11 Philippines is a signatory, under such rules and regulations as may be  
12 prescribed by the Secretary of Finance, upon the recommendation of the  
13 Commissioner.

14       SEC. 9. *Separability Clause.* – If any provision of this Act is declared  
15 invalid or unconstitutional, other provisions hereof which are not affected  
16 thereby shall continue to be in full force and effect.

17       SEC. 10. *Repealing Clause.* – All laws, presidential decrees, executive  
18 orders, rules and regulations, and other issuances or parts thereof which are  
19 inconsistent with this Act are hereby repealed, amended or modified  
20 accordingly.

21       SEC. 11. *Effectivity Clause.* – This Act shall take effect fifteen (15)  
22 days after its publication in the *Official Gazette* or in at least two (2)  
23 newspapers of general circulation.

Approved,