

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

5 MAY 25 P3:34

SENATE

RECEIVED BY: _____

S.B. No. 2028

Introduced by Senator Ramon Bong Revilla, Jr.

EXPLANATORY NOTE

Despite the recent passage of several tax bills into law, which has led to some improvement in our fiscal situation, the truth remains that the country – having historical budget deficits, huge foreign debt to service and little left for social services – is still far from the ideal condition to service the basic needs of our people.

The budget deficit is primarily attributed to low revenue generation on the part of government and tax evasion on the part of the taxpayers. Thus, measures should be taken to increase revenue intake of the government in order to improve the capability of the government to finance its budgetary requirements and to reduce, if not eliminate, the cases of non-payment of taxes in the country.

This bill requires the filing of Statements of Assets, Liabilities and Net Worth (SALN) along with the tax amnesty return by all taxpayers who wish to avail of the amnesty program. It provides for a one-time tax amnesty program covering all unpaid national internal revenue taxes as of 2003 and prior years. But, it imposes a moratorium on granting tax amnesties in the future.

Aside from the fact that tax amnesties may encourage the informal sector to surface, thus, broadening the tax base, this amnesty may likewise allow the tax administration to economize on the cost of prosecuting tax evasion cases.

Therefore, the immediate passage of this bill is earnestly sought.


RAMON BONG REVILLA, JR.
Senator

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

5 MAY 25 P3:34

SENATE
S.B. No. 2023

RECEIVED BY : _____

Introduced by Senator Ramon Bong Revilla, Jr.

AN ACT GRANTING A ONE-TIME TAX AMNESTY ON ALL UNPAID NATIONAL INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2003 AND PRIOR YEARS AND FOR OTHER PURPOSES

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

SECTION 1. Coverage. – There is hereby authorized and granted a tax amnesty which shall cover all national internal revenue taxes for the taxable year 2003 and prior years, with or without assessments duly issued therefore, that have remained unpaid as of December 31, 2003: *Provided, however,* That the amnesty hereby authorized and granted shall not cover persons enumerated under Section 10 hereof.

SEC. 2. Availment of the Amnesty. – Any person, natural or juridical, who wishes to avail o the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2003, in such form as shall be prescribed by the Secretary of Finance, upon the recommendation of the Commissioner of Internal Revenue, and pay the applicable amnesty tax within our (4) months following the effectivity of this Act.

SEC. 3. What to Declare in the SALN. – The SALN shall contain a declaration of the assets, liabilities and networth as of December 31, 2003, as follows:

(a) Assets within or outside the Philippines, whether real or personal, tangible or intangible, whether or not used in trade or business: *Provided, further,* That foreign currency assets and/or securities shall be valued at the rate of exchange prevailing as of the date of the SALN;

(b) All existing liabilities which are legitimate and enforceable, secured or unsecured, whether or not incurred in trade or business; and

(c) The networth of the taxpayer, which shall be the difference between the total assets and total liabilities.

SEC. 4. Presumption of Correctness of SALN. – The SALN as of December 31, 2003 shall be considered as true and correct except where the amount of declared networth is understated to the extent of twenty-five percent (25%) or more as may be established in proceedings initiated by, or at the instance of, parties other than the Bureau of Internal Revenue (BIR) within three years following the date of the filing of the amnesty return and SALN.

SEC. 5. Tax Amnesty on Taxpayers with no Internal Revenue Tax Assessments. –
(a) Any person, whether natural or juridical, without pending or outstanding assessments for

any national internal revenue taxes as of December 31, 2003, may avail of the tax amnesty herein granted by filing an amnesty return as prescribed under Section 2 hereof, and upon payment of an amnesty tax based on his or its networth as of December 31, 2003, as declared in the SALN as of said period, in accordance with the following schedule of amnesty tax rate and required minimum amnesty tax:

(1) Individuals (whether resident or non-resident citizens, including resident aliens);

(A) Employees, whether on a permanent or contractual basis
----- 3% or P20,000.00
 whichever is higher

(B) Self-employed and/or professionals
----- 3% or P50,000.00
 whichever is higher

(2) Trusts and Estates
----- 3% or 100,000.00
 whichever is higher

(3) Corporations, including tax-exempt organizations enumerated under section 30 of the National Internal Revenue Code of 1997, as amended, but otherwise taxable on their income from any properties or activities conducted for profit:

(A) Taxpayers with subscribed capital of above P50 Million
----- 3% or P500,000.00
 whichever is higher

(B) Taxpayers with subscribed capital of above P20 Million
up to P50 Million
----- 3% or 250,000.00
 whichever is higher

(C) Taxpayers with subscribed capital of above P5 Million
up to P20 Million
----- 3% or P100,000.00
 whichever is higher

(D) Taxpayers with subscribed capital of P5 Million and below
----- 3% or P25,000.00
 whichever is higher

(4) Other juridical entities, including but not limited to cooperatives and foundations that have become taxable as of December 31, 2003

----- 3% or P20,000.00
 whichever is higher

(b) Taxpayers who filed their balance sheets/SALN, together with their income tax returns for 2003, and who desire to avail of the tax amnesty under this Act shall amend such previously-filed statements by including still undeclared assets and/or liabilities and pay an amnesty tax equal to three percent (3%) based on the resulting increase in networth: *Provided, further,* That such taxpayers shall likewise be categorized in accordance with, and subjected to the minimum amounts of amnesty tax prescribed under the provisions of subparagraph (a) hereof.

(c) Taxpayers with foreign currency assets and/or securities abroad may avail of a tax amnesty at the rate equivalent to two percent (2%) of the peso amount at the prevailing exchange rate of the repatriated foreign currency assets and/or securities: *Provided*, that the said foreign currency assets and/or securities have been declared by the taxpayer in his or it's SALN as of December 31, 2003: *Provided further*, that the same have been brought in the Philippines from December 31, 2003 up to the time of filing tax amnesty: *Provided furthermore*, that a duly notarized sworn statement declaring the amount of repatriated foreign currency assets and/or securities and a certification of inward remittance thereof issued by the Bangko Sentral ng Pilipinas (BSP) shall be submitted by the taxpayer: *Provided finally*, that the amended networth of the taxpayer as of December 31, 2003, net of such repatriated foreign currency assets and/or securities, may be subjected to the amnesty tax under subsections (a) or (b) hereof.

SEC. 6. Tax Amnesty for Taxpayers with Pending Tax Assessments Before the Bureau of Internal Revenue. – A taxpayer, whether natural or juridical, with assessments for national internal revenue taxes, whether protested or pending with the BIR as of December 31, 2003 may avail of the tax amnesty equivalent to ten percent (10%) of the basic tax assessed, exclusive of interest, surcharges and penalties, which shall be in addition to the amnesty tax imposed under Section 5 and/or Section 7 hereof.

SEC. 7. Tax Amnesty for Taxpayers with Final Assessment Notices and Tax Cases Pending before the Courts. – A taxpayer, whether natural or juridical, with a final assessment notice and pending cases before the courts for the assessment or collection of national internal revenue taxes as of December 31, 2003, except those mentioned under section 10(e) hereof, may avail of the tax amnesty equivalent to twenty-five percent (25%) of the basic tax assessed, exclusive of interests, surcharges and penalties, which shall be in addition to the amnesty tax imposed under Section 5 and/or Section 6 hereof.

SEC. 8. When and Where to File and Pay. – The filing of the SALN, as well as the tax amnesty return, and the payment of the amnesty tax shall be made within four months following the effectivity of this Act: *Provided*, That tax amnesty returns covering unpaid national internal revenue tax liabilities shall be filed, at the option of the taxpayer, at the Office which has jurisdiction over the legal residence or principal place of business of the taxpayer. The Commissioner of Internal Revenue or the Revenue District Officer shall issue an acceptance of payment form authorizing an authorized agent bank, or in the absence thereof, the Collection Agent or Municipal Treasurer concerned to accept the amnesty tax.

SEC. 9. Immunities and Privileges. – Upon full compliance with the conditions of the tax amnesty:

- (a) The taxpayer shall be immune from the payment of taxation, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties arising from the failure to pay any and all national internal revenue taxes under the National Internal Revenue Code of 1997, as amended, for taxable year 2003 and prior years: *Provided*, that the immunity herein granted shall attach only to the particular tax amnesty availed under Sections 5, 6 and 7 hereof: *Provided further* that such immunity shall not extend to any or all of the cases mentioned under Section 10 hereof.
- (b) The taxpayer's tax amnesty return and SALN as of December 31, 2003 shall not be admissible as evidence in all proceedings that pertains to taxable year 2003 and prior years insofar as such proceedings relate to national internal revenue taxes before judicial, quasi-judicial or administrative bodies in which he or it is a defendant or respondent.
- (c) The taxpayer's tax amnesty return, SALN, books of accounts and other records of the taxpayer for the years when tax amnesty was availed shall not be

examined. *Provided*, That the Commissioner of Internal Revenue may authorize in writing the examination of the said documents to verify the validity or correctness of a claim for grant of any tax refund, tax credit (other than refund or credit of taxation withheld on wages) tax incentives, and/or exemptions under existing laws.

All these immunities and privileges shall not apply where the person failed to file a Statement of Assets, Liabilities and Networth or tax amnesty return, or where the amount of networth as of December 31, 2003 is proven, through third party information, to be understated to the extent of twenty-five percent (25%) or more.

SEC. 10. *Exceptions* – The tax amnesty provided in this Act shall not extend to the following:

- (a) Withholding agents with respect to their withholding tax liabilities;
- (b) Those with pending cases falling under the jurisdiction of the Presidential Commission on Good Government;
- (c) Those with pending cases before the Sandiganbayan involving unexplained or unlawfully acquired wealth or under the Anti-Graft and Corrupt Practice Act.
- (d) Those with pending investigations for, or with pending cases involving any violation of the Anti-Money Laundering Act, and/or any of the unlawful activities as provided under the said Act;
- (e) Those with pending criminal cases for tax evasion and other criminal offenses under Chapter II of Title X of the National Internal Revenue Code of 1997, as amended, and the felonies of fraud, illegal exactions and transactions. And malversation of public funds and property under Chapters III and IV of Title VII of the Revised Penal Code; and
- (f) Those with final and executory judgment by the courts

The above-enumerated cases refer to those pending before the effectivity of this Act. Immunities and privileges granted under previous tax amnesties shall be respected and recognized thereby.

SEC. 11. *Unlawful Divulgence of Tax Amnesty Return and SALN*. – Except as otherwise provided in Section 14 hereof, it shall be unlawful for any person having knowledge of the tax amnesty declaration and the SALN filed pursuant hereto, to disclose any information relative to such declaration and statement. And any violation hereof shall subject the offender to the penalties under Section (12) (c) of this act.

SEC. 12. *Penalties* – (a) Any person who, having filed SALN or tax amnesty return under this act, willfully understates his or its networth to the extent of twenty-five percent (25%) or more shall, upon conviction be subject to the penalties of perjury under the Revised Penal Code.

(b) The willful failure to declare any property in the SALN and/or in the tax amnesty return shall be deemed a prima facie evidence of fraud and shall constitute a ground upon which attachment of such property may be issued in favor of the BIR to answer for the satisfaction of any judgment that may be acquired against the declarant.

In addition to the penalties provided in paragraphs (a) and (b) above, immediate tax fraud investigations shall be conducted to collect all taxes due, including increments, and to criminally prosecute those found to have willfully evaded lawful taxes due.

In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president general manager, branch manager, treasurer, officer-in-charge and employees responsible for the violation.

(c) The unlawful divulgence of the amnesty tax return and the SALN shall be penalized by a fine in the amount of not less than FIFTY THOUSAND PESOS (P 50,000.00) but not more than ONE HUNDRED THOUSAND PESOS (P100,000.00) and suffer imprisonment of not less than six (6) years but not more than ten (10) years.

If the offender is an officer or employee of the BIR or any government entity, he shall likewise suffer an additional penalty of perpetual disqualification to hold public office, to vote and to participate in any public election.

Section 13. *Moratorium on the Grant of Tax Amnesty.* – In order to encourage and improve tax compliance by taxpayers, it is hereby declared policy in this congress that the grant of tax amnesty, in whatever manner and form, shall not henceforth be allowed: Provided, further, that this moratorium shall likewise apply to any administrative tax amnesty by the Bureau of Internal Revenue. This will be the final act of Congress in granting tax amnesty.

Section 14. *Management Information System.* – The Department of Finance, in coordination with the Bureau of Internal Revenue, Bureau of Customs, Land Transportation Office, Land Registration Authority, Securities and Exchange Commission and other concerned agencies of the government, shall institute a Management Information System for a broader tax base resulting from the implementation of this Act for purposes of enhancing revenue administration, revenue collection and policy formulation.

The commissioner of internal revenue shall cause to be published the total amount of tax amnesty collected, the total amount of net worth declared and the total tax amnesty returns filed, which shall be segregated in accordance with the taxpayers classifications provided under Sections 5, 6 and 7 hereof.

Section 15. *Disposition of Proceeds from the Tax Amnesty.* – An amount equivalent to TWO HUNDRED MILLION PESOS (P200,000,000.00) of the collection from the tax amnesty herein granted shall accrue from the Department of Finance and shall be used exclusively for purposes of instituting a Management Information System as mandated under Section 14 of this Act.

Section 16. *Implementing Rules and Regulations.* – The Secretary of Finance shall, in coordination with the Commissioner of the Internal Revenue, promulgate and publish the necessary rules and regulation for the effective implementation of this Act within thirty (30) days from the effectivity of this Act.

Section 17. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the official gazette or in any two (2) newspapers of general circulation, whichever comes earlier.

Approved,