

REPUBLIC ACT NO. 7642, AN ACT INCREASING THE PENALTIES FOR TAX EVASION, AMENDING FOR THIS PURPOSE THE PERTINENT SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

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SECTION 1. Scope. - Pursuant to Section 245 of the National Internal Revenue Code (NIRC) as amended, in relation to Section 14 of Republic Act No. 7642, these regulations are hereby promulgated to implement the provisions of said Act increasing the penalties of tax evasion.

SECTION 2. General Principles on Fine. - The penalty of fine prescribed under Chapter II, Title X of the NIRC for acts constituting criminal liability of persons who have violated the provisions of the NIRC shall be imposed only by the regular courts. The fines to be imposed for such violations shall not be lower than the amount of the fines imposed herein, or twice the amount of taxes, interests, and surcharges due from the taxpayer whichever is higher.

SECTION 3. Penal Liability of Corporations. - Any corporation, association, or general co-partnership liable for any of the acts or omissions penalized under the NIRC, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees, shall, upon conviction for each act or omission, be fined not less than fifty thousand pesos but not more than one hundred thousand pesos.

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.

SECTION 4. Authorized Penalties for Offenses Committed by Persons in General. - Any person who commits any of the offenses/violations hereinbelow specified shall, upon conviction, be liable to the corresponding increased penalties prescribed as follows:

- a. For willfully attempting to evade or defeat the payment of any tax imposed under the NIRC - the penalty shall be a fine of not less than thirty thousand pesos, but not more than one hundred thousand pesos and imprisonment of not less than two years but not more than four years.
- b. For willfully attempting to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed - the penalty shall be a fine of not less than Ten thousand pesos but not more than Twenty thousand pesos and imprisonment of not less than one year but not more than three years.
- c. For unlawful pursuit of business committed by carrying on any business for which a privilege tax is imposed but without paying the tax as required by law - for each act, or omission, the penalty shall be a fine of not less than five thousand pesos but not more than twenty thousand pesos and imprisonment of not less than six months but not more than two years; Provided, That, in the case of a person engaged in the business of distilling, rectifying, repacking, compounding, or manufacturing any article subject to excise tax - for each act or omission, the penalty shall be a fine of not less than thirty thousand pesos but not more than fifty thousand pesos and

imprisonment of not less than two years but not more than four years.

d) For illegal collection of foreign payments committed by any person who knowingly undertakes the collection of foreign payments as provided under Section 60 of the NIRC without having obtained a license therefor, or without complying with its implementing regulations - for each act or omission, the penalty shall be a fine of not less than twenty thousand pesos but not more than fifty thousand pesos and imprisonment of not less than one year but not more than two years. Thus, all persons, corporations, duly registered general co-partnerships, (compania colectivas) undertaking for profit or otherwise the collection of foreign payments of interests or dividends by means of coupons, checks, or bills of exchange shall obtain license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to obtain the information required under Title II, NIRC as the Secretary of Finance shall prescribe; and whoever knowingly undertakes to collect such payments without having obtained a license therefor, or without complying with such regulations, shall, for each act or omission, be subject to the increased penalty of a fine of not less than twenty thousand pesos but not more than fifty thousand pesos and imprisonment of not less than one year but not more than two years.

e) For failure or refusal to issue receipts or sales or commercial invoices committed by any person who, being required under Section 238, NIRC to issue receipts or sales or commercial invoices, fails or refuses to issue such receipts or invoices, issues receipts or invoices that do not truly reflect and/or contain all the information required to be shown therein or uses multiple or double receipts or invoices - for each act or omission, the penalty of fine of not less than one thousand pesos but not more than fifty thousand pesos and imprisonment of not less than two years but not more than four years.

f) For failure to obey summons committed by any person who, being duly summoned to appear to testify, or to appear and produce books of accounts, records, memoranda, or other papers, or to furnish information as required under the pertinent provisions of this Code, neglects to appear or to produce such books of accounts, records, memoranda, or other papers, or to furnish such information - the penalty shall be a fine of not less than five thousand pesos but not more than ten thousand pesos and imprisonment of not less than one year but not more than two years.

For purposes of these regulations, the term willfully shall mean an act done with evil intent or legal malice and without justifiable excuse. In case of statutory offenses requiring notice of demand, the term willfully connotes deliberate or stubborn refusal to pay the tax after a notice of demand.

Since the privilege fixed taxes had already been abolished by/with the introduction of the value-added tax (VAT) into our tax system, for purposes of the imposition of penalties prescribed under Section 257 of the NIRC and Section 4(c) of these regulations, unlawful pursuit of business is committed by one who carries on any business without having previously registered as a VAT or NON-VAT taxpayer, as the case may be.

SECTION 5. Authorized penalties for Making False Entries, Records, or Reports Committed by an Independent Certified Public Accountant, and/or any person under his direction. - Any independent Certified Public Accountant engaged to examine and audit books of accounts of taxpayers under Section 232 (A) of the NIRC and/or any person under his direction who:

a) Willfully falsifies any report or statement bearing on any examination or audit, or renders a report, including exhibits, statements, schedules, or other forms of accountancy work which has not been verified by him personally or under his supervision or by a member of his firm or by a member of his staff in accordance with sound auditing practice;

b) Certifies financial statements of business enterprise containing an essential misstatement of facts or omission in

respect of the transactions, taxable income, deduction, and exemption of his client,

shall, upon conviction for each act or omission, be punished by an increased penalty of fine of not less than thirty thousand pesos but not more than fifty thousand pesos and imprisonment of not less than two years but not more than six years.

For purposes of these regulations, the term Independent Certified Public Accountant is one who is engaged in the practice of public accounting. He is such if (i) he holds himself out to the public as one skilled in the knowledge, science and practice of accounting and as qualified to render professional services as a certified public accountant; or (2) he offers and/or renders to more than one client on a fee basis or otherwise, such services as the audit of verification of financial transactions and accounting records; the preparation, signing or certification for clients of reports of audits, balance sheets and other financial, accounting and other related schedules, exhibits, statements, or reports which are to be used for publication or for credit purposes, or to be filed with a court or government agency, or to be used for any other purpose; installation and revision of accounting systems; the preparation of income tax returns (when related to accounting procedures); or when he represents clients before governmental agencies on tax matters to accounting procedures and the record and presentation of financial facts or data. (Section 24, Article IV, Accountancy Act of 1967; now found in Section 3 of P.D. No. 692, the New Accountancy Law)

SECTION 6. Authorized Penalties for Making False Entries, Records or Reports Committed by Non-Certified Public Accountants. - Any person who, not being an independent certified public accountant according to Section 232 (B) of the NIRC:

- a) Examines and audits books of accounts of taxpayers; or
- b) Offers to sign and certify financial statements without audit; or
- c) Offers any taxpayer the use of accounting bookkeeping records for internal revenue purposes not in conformity with the requirements prescribed in the NIRC or regulations promulgated thereunder; or
- d) Knowingly makes any false entry or enters any false or fictitious name in the books of accounts or records mentioned in the preceding paragraphs; or
- e) Keeps two or more sets of such records or books of accounts; or
- f) In any way commits an act or omission in violation of the provisions of Section 256, NIRC; or
- g) Fails to keep the books of accounts or records mentioned in Section 232, NIRC in a native language, English, or Spanish, or to make a true and complete translation as required in Section 234 of the NIRC, or whose books of accounts or records kept in a native language, English, or Spanish, are found to be at material variance with books or records kept by him in another language - shall, upon conviction for each act or omission, be punished by an increased penalty of a fine of not less than thirty thousand pesos but not more than fifty thousand pesos and imprisonment of not less than two years but not more than six years.

SECTION 7. Violations Committed by Government Enforcement Officers. - Every official, agent, or employee of the Bureau of Internal Revenue or any other agency of the Government charged with the enforcement of the provisions of the NIRC who is guilty of any of the offenses hereinbelow specified shall, upon conviction for each act or omission, be punished by an increased penalty of a fine of not less than Fifty thousand pesos but not more than One hundred thousand pesos and suffer imprisonment of not less than ten years but not more than fifteen years and shall likewise suffer an additional penalty of perpetual disqualification to hold public office, to vote, and to participate in any public election:

- a) Those guilty of extortion willful oppression through the use of his office;
- b) Those who knowingly demand other or greater sums than are authorized by law or receive any fees, compensation, or reward, except as by law prescribed, for the performance of any duty;
- c) Those who willfully neglect to give receipts, as by law required, for any sums collected in the performance of duty or who willfully neglect to perform any other duties enjoined by law;
- d) Those who conspire or collude with another or others to defraud the revenues or otherwise violate the provisions of the NIRC;
- e) Those who by neglect or design permit the violation of the law by any other person;
- f) Those who make or sign any false entry or entries in any books, or make or sign any false certificate or return;
- g) Those who allow or conspire or collude with another to allow the unauthorized retrieval, withdrawal, or recall of any return, statement, or declaration after the same has been officially received by the Bureau of Internal Revenue;
- h) Those who, having knowledge or information of a violation of the NIRC or of any fraud committed on the revenues collectible by the Bureau of Internal Revenue, fail to report such knowledge or information to their superior officer or to report as otherwise required by law; and
- i) Those who, without the authority of law, demand or accept or attempt to collect, directly or indirectly, as payment or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of the NIRC.

SECTION 8. Unlawful Possession or Removal of Articles Subject to Excise tax Without Payment of the Tax. - Any person who owns and/or is found in possession of imported articles subject to excise tax, the tax on which has not been paid in accordance with law, or any person who owns and/or is found in possession of imported tax exempt articles other than those to whom they are legally issued shall be punished by:

- a) A fine of not less than One thousand pesos but not more than Two thousand, pesos and imprisonment of not less than sixty days but not more than one hundred days if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles does not exceed One thousand pesos;
- b) A fine of not less than Ten thousand pesos but not more than twenty thousand pesos and imprisonment of not less than two years but not more than four years if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles exceed One thousand pesos but does not exceed fifty thousand pesos;
- c) A fine of not less than Thirty thousand pesos but not more than Sixty thousand pesos and imprisonment of not less than four years but not more than six years if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles is more than fifty thousand pesos but does not exceed One hundred fifty thousand pesos; or
- d) A fine of not less than fifty thousand pesos but not more than one hundred thousand pesos and imprisonment of not less than ten years but not more than twelve years if the appraised value, to be determined in the manner prescribed in the Tariff and Customs Code, including duties and taxes, of the articles exceed One hundred fifty thousand pesos.

Any person who is found in possession of locally manufactured articles subject to excise tax, the tax on which has

not been paid in accordance with law, or any person who is found in possession of such articles which are exempt from excise tax other than those to whom the same is lawfully issued shall be punished with an increased penalty of a fine of not less than ten times the amount of excise tax due on the articles found but not less than five hundred pesos and imprisonment of not less than two years but not more than four years.

Any manufacturer, owner, or person in charge of any article subject to excise tax who removes or allows or causes the unlawful, removal of any such articles from the place of production or bonded warehouse, upon which the articles subject to excise tax has not been paid at the time and in the manner required, and any person who knowingly aids or abets in the removal of such articles as aforesaid, or conceals the same after illegal removal shall, for the first offense, be punished with a fine of not less than ten times the amount of excise tax due on the articles but not less than One thousand pesos and imprisonment of not less than one year but not more than two years.

The mere unexplained possession of articles subject to excise tax, the tax on which has not been paid in accordance with law, shall be punished under Section 262, NIRC.

SECTION 9. Offenses relating to stamps. - Any person who commits any of the acts enumerated hereunder shall, upon conviction thereof, be punished by an increased penalty of fine of not less than Twenty thousand pesos but not more than Fifty thousand pesos and suffer imprisonment of not less than four years but not more than eight years:

- a) Makes, imports, sells, uses, or possesses without express authority from the Commissioner any die for printing or making stamps, labels, tags, or playing cards;
- b) Erases the cancellation marks of any stamp previously used or alters the written figures or letters or cancellation marks on internal revenue stamps;
- c) Possesses false, counterfeit, restored, or altered stamps, labels, or tags or causes the commission of any such offense by another;
- d) Sells or offers for sale any box or package containing articles subject to excise tax with false, spurious, or counterfeit stamps or labels or calls from any such fraudulent box, package, or container as aforesaid; or
- e) Gives away or accepts from another or sells, buys, or uses containers on which the stamps are not completely destroyed;

SECTION 10. Clarificatory Clause. - Penalties or offenses/violations not covered by these regulations shall remain the same and as prescribed by the unamended penal provisions of Title X, NIRC.

SECTION 11. Repealing Clause. - All existing rules, regulations and other issuances or parts thereof which are inconsistent with the provisions of these regulations are hereby amended or revoked accordingly.

SECTION 12. Effectivity. - These Regulations shall take effect fifteen (15) days after the publication in a newspaper of general circulation or the Official Gazette, whichever comes first.

Adopted: 14 Jan. 1994

(Sgd.) ROBERTO F. DE OCAMPO
Secretary of Finance

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