

REPUBLIC OF THE PHILIPPINES }
CONGRESS OF THE PHILIPPINES }
 First Regular Session

H. No. 2996
S. No. 1871

REPUBLIC ACT NO. 9335

AN ACT TO IMPROVE THE REVENUE COLLECTION PERFORMANCE OF THE BUREAU OF INTERNAL REVENUE (BIR) AND THE BUREAU OF CUSTOMS (BOC) THROUGH THE CREATION OF A REWARDS AND INCENTIVES FUND AND OF A REVENUE PERFORMANCE EVALUATION BOARD AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* – This Act shall be known as the "Attrition Act of 2005".

SEC. 2. *Declaration of Policy.* – It is the policy of the State to optimize the revenue-generation capability and collection of the Bureau of Internal Revenue (BIR) and the Bureau of Customs (BOC) by providing for a system of rewards and sanctions through the creation of a Rewards and Incentives Fund and a Revenue Performance Evaluation Board in the above agencies for the purpose of encouraging their officials and employees to exceed their revenue targets.

SEC. 3. *Coverage.* – The system of rewards, incentives and sanctions provided in this Act shall cover all officials and employees of the BIR and the BOC, regardless of employment status, with at least six months of service.

SEC. 4. *Rewards and Incentives Fund.* – A Rewards and Incentives Fund, hereinafter referred to as the Fund, is hereby created, to be sourced from the collection of the BIR and the BOC in excess of their respective revenue targets of the year, as determined by the Development Budget and Coordinating Committee (DBCC), in the following percentages:

<u>Excess of Collection Over the Revenue Targets</u>	<u>Percent (%) of the Excess Collection to Accrue to the Fund</u>
30% or below	- 15%
More than 30%	- 15% of the first 30% plus 20% of the remaining excess.

The Fund shall be deemed automatically appropriated the year immediately following the year when the revenue collection target was exceeded and shall be released on the same fiscal year.

Revenue targets shall refer to the original estimated revenue collection expected of the BIR and the BOC for a given fiscal year as stated in the Budget of Expenditures and Sources of Financing (BESF) submitted by the President to Congress. The BIR and the BOC shall submit to the DBCC the distribution of the agencies revenue targets as allocated among its revenue districts in the case of the BIR, and the collection districts in the case of the BOC.

Any incentive under this Section shall be apportioned among the various units, officials and employees of the BOC or the BIR, as the case may be, in proportion to their relative contribution to the aggregate amount of the excess collection over the targeted amount of tax revenue to be collected by the two bureaus respectively.

The Fund shall be allocated, distributed and released by the Revenue Performance Evaluation Board in each agency, hereinafter created in Section 6 of this Act, in accordance with the rules and regulations issued by the same.

SEC. 5. Incentives to District Collection Offices. – In the event that the BIR or the BOC fails to meet its revenue target by less than ten percent (10%), the revenue districts, in the case of the BIR, or the collection districts, in the case of the BOC, which exceed their respective allocations of the revenue target (allocated target), shall be entitled to rewards and incentives (district incentive) amounting to ten percent (10%) of the excess

over its allocated target: *Provided, however,* That any BIR revenue district or BOC collection office which deliberately foregoes any revenue collection in a given year as part of a scheme to avoid a higher allocated target for the subsequent year shall not be entitled to a district incentive in such subsequent year notwithstanding its having exceeded its allocated target: *Provided, further,* That the allocated target of any such district shall have been reported to and validated by the DBCC as required in the immediately preceding section.

The district reward shall be deemed automatically appropriated the year immediately following the year when the revenue collection target was exceeded and shall be released in the same fiscal year.

The allocation, distribution and release of the district reward shall likewise be prescribed by the rules and regulations of the Revenue Performance Evaluation Board.

SEC. 6. Revenue Performance Evaluation Board. – There is hereby created a Revenue Performance Evaluation Board in the BIR and the BOC, hereinafter referred to as the Board, each of which shall be composed of the Secretary of the Department of Finance (DOF) or his/her Undersecretary as the Chairman; the Secretary of the Department of Budget and Management (DBM) or his/her Undersecretary; the Director General of the National Economic and Development Authority (NEDA) or his/her Deputy Director General; and as nonvoting members the Commissioners of the BIR and the BOC, or their Deputy Commissioners; two representatives from the rank-and-file employees; and a representative from the officials, both of whom shall be duly nominated by their respective recognized organization.

SEC. 7. Powers and Functions of the Board. – The Board in the agency shall have the following powers and functions:

(a) To prescribe the rules and guidelines for the allocation, distribution and release of the Fund due to the agency as provided for in Sections 4 and 5 of this Act: *Provided,* That the

rewards under this Act may also take the form of nonmonetary benefits;

(b) To set the criteria and procedures for removing from service officials and employees whose revenue collection falls short of the target by at least seven and a half percent (7.5%), with due consideration of all relevant factors affecting the level of collection as provided in the rules and regulations promulgated under this Act, subject to civil service laws, rules and regulations and compliance with substantive and procedural due process: *Provided*, That the following exemptions shall apply:

(1) Where the district or area of responsibility is newly-created, not exceeding two years in operation, and has no historical record of collection performance that can be used as basis for evaluation; and

(2) Where the revenue or customs official or employee is a recent transferee in the middle of the period under consideration unless the transfer was due to nonperformance of revenue targets or potential nonperformance of revenue targets: *Provided, however*, That when the district or area of responsibility covered by revenue or customs officials or employees has suffered from economic difficulties brought about by natural calamities or *force majeure* or economic causes as may be determined by the Board, termination shall be considered only after careful and proper review by the Board.

(c) To terminate personnel in accordance with the criteria adopted in the preceding paragraph: *Provided*, That such decision shall be immediately executory: *Provided, further*, That the application of the criteria for the separation of an official or employee from service under this Act shall be without prejudice to the application of other relevant laws on accountability of public officers and employees, such as the Code of Conduct and Ethical Standards of Public Officers and Employees and the Anti-Graft and Corrupt Practices Act;

(d) To prescribe a system for performance evaluation;

(e) To perform such other functions as are necessary or incidental to its mandated functions, including the issuance of rules and regulations for the proper conduct of its functions; and

(f) To submit an annual report to the Congress.

SEC. 8. *Liability of Officials, Examiners and Employees of the BIR and the BOC.* – The officials, examiners, and employees of the Bureau of Internal Revenue and the Bureau of Customs who violate this Act or who are guilty of negligence, abuses or acts of malfeasance or misfeasance or fail to exercise extraordinary diligence in the performance of their duties shall be held liable for any loss or injury suffered by any business establishment or taxpayer as a result of such violation, negligence, abuse, malfeasance, misfeasance or failure to exercise extraordinary diligence.

SEC. 9. *Right to Appeal.* – An official or employee whose employment is terminated by virtue of the decision of the Board may appeal to the Civil Service Commission (CSC) or the Office of the President (OP), whichever is applicable, in accordance with pertinent laws, rules and regulations.

SEC. 10. *Performance Report.* – The Commissioners of the BIR and the BOC shall regularly file a report with the Board stating therein the status of collection in their respective agencies, and in the event of a shortfall or surplus, the source of the shortfall or surplus, the personnel in-charge of the unit, his/her explanation for the shortfall or surplus and his/her recommendation as to remedial course of action in cases of shortfall, and in the case of the year-end report the names of officers and employees who are recommended for termination or reward.

The report shall be submitted semi-annually with the last report to be annualized. A copy of the report shall be submitted to Congress within two months after the period ends.

In the event of a shortfall in the national target, a separate report shall be submitted by the voting members of the Board

to the Office of the President containing its evaluation of the performance of the Commissioner concerned on the basis of which the President may pursue a course of action consistent with the national interest. Said reports shall likewise be furnished to Congress.

SEC. 11. *Rules and Regulations.* – The DOF, DBM, NEDA, BIR, BOC and CSC, shall jointly issue the rules and regulations of this Act within thirty (30) days after its effectivity.

SEC. 12. *Joint Congressional Oversight Committee.* – There is hereby created a Joint Congressional Oversight Committee composed of seven Members from the Senate and seven Members from the House of Representatives. The Members from the Senate shall be appointed by the Senate President, with at least two senators representing the minority. The Members from the House of Representatives shall be appointed by the Speaker with at least two members representing the minority. After the Oversight Committee will have approved the implementing rules and regulations (IRR) it shall thereafter become *functus officio* and therefore cease to exist.

SEC. 13. *Separability Clause.* – If any provision of this Act is declared invalid by a competent court, the remainder of this Act or any provision not affected by such declaration of invalidity shall remain in force and effect.

SEC. 14. *Repealing Clause.* – All laws, presidential decrees, executive orders, other executive issuances, rules and regulations or parts thereof, including the provisions of Section 285 of Republic Act No. 8424, which are inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 15. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved, January 25, 2005.